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World survey on the role of women in development

Report of the Secretary-General*

Addendum

Women and international migration

Executive summary

In its resolutions 54/210 of 22 December 1999 and 58/206 of 23 December 2003 the General Assembly requested the Secretary-General to update the *World Survey on the Role of Women in Development* for consideration by the General Assembly during its fifty-ninth session. The present *World Survey* addresses key issues related to women and international migration.

The migration of women has always been an important component of international migration. As of 2000, 49 per cent of all international migrants were women or girls, and the proportion of females among international migrants had reached 51 per cent in more developed regions.

A gender perspective is essential to understanding both the causes and consequences of international migration. Gender inequality can be a powerful factor in precipitating migration when women have economic, political and social expectations that opportunities at home do not meet. Migration can be an empowering experience for women. In the process of international migration, women may move away from situations where they live under traditional, patriarchal authority to situations where they are empowered to exercise greater autonomy over

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their own lives. Women who remain behind when their husbands or children migrate often have to take on new roles and assume responsibility for decisions affecting the social and economic well-being of their households.

A dearth of data on women and migration makes it difficult to assess the full implications of international migration for women. Statistics on international migration, both legal and unauthorized, are far from reaching universal coverage and are often published without classification by sex or age. A better understanding of women and international migration requires improvements in data collection, dissemination and analysis.

Migrant women play a part in the economic development of their country of destination and their country of origin through financial contributions from remittances, the improvement of their own skills or their contribution to the improvement of the education and skills of the next generation. Individual remittance transfers continue to be an important source of income for many families in developing countries. Migrant women may also influence the societies of origin by disseminating new values about the rights and opportunities for women.

Women often migrate officially as dependent family members of other migrants or as future spouses of someone in another country. Female migrants are increasingly part of worker flows, moving on their own to become the principal wage earners for their families. Most women move voluntarily, but women and girls are also part of the flows of forced migrants who have fled conflict, persecution, environmental degradation, natural disasters and other situations that affect their habitat, livelihood and security.

Various international instruments specifically or generally enumerate the rights of migrants. International human rights conventions, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, provide important protection for migrant women and girls. During the past decade, a number of international, regional and national instruments dealing specifically with migration have been adopted, which include provisions applicable to migrant women. They include the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime; and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime.

Many national laws on emigration and immigration of voluntary migrants include discriminatory provisions that affect the protection of migrant women. Examples of discriminatory laws include provisions that deny permission or make it harder for female migrants to bring their husbands and children to join them, require pregnancy tests for female migrants, bar emigration of women without their guardian's permission and impose age limits on immigration or emigration of women and girls. Other legal provisions that may appear neutral can have a disproportionately negative impact on women since women tend to migrate more frequently in certain categories, such as domestic workers or agricultural workers, where local labour codes may not be in place or may not be enforced.

Refugee women and girls face particular problems regarding their legal and physical protection. The United Nations High Commissioner for Refugees has issued guidelines on gender-related persecution that recognize that gender perspectives can influence the reasons behind and type of persecution or harm suffered by women. Many factors contribute to the vulnerability of refugee and displaced women and girls to sexual violence and exploitation. The traditional communal support systems for protection of widows, single women and unaccompanied minors may no longer exist in camp situations. Power relations in situations where women and children are dependent on aid may increase vulnerability to sexual exploitation. Equal access to food and other essential items is a key issue for refugee and displaced women and children, as is their participation in decisions regarding their future and that of their families.

The trafficking of people for prostitution and forced labour is one of the fastest-growing areas of international criminal activity and one that is of increasing concern to the international community. Women smuggled by traffickers may be led to believe that they will work in legitimate occupations but find themselves trapped into forced prostitution, marriage, domestic work, sweatshops and types of exploitation that constitute a contemporary form of slavery. Preventive activities must include education about the dangers of trafficking, in combination with the provision of economic opportunities at home and legal channels of migration for women who might otherwise resort to utilizing smugglers and traffickers.

International migration affects gender roles and opportunities for women in destination countries. In general, labour participation by female immigrants is lower than among the native population. Unemployment rates among women immigrants in the labour force are generally higher. Women immigrants tend to have lower earnings relative to male immigrants and natives. When the entire family migrates, mobility can lead to gender and intergenerational tensions. This is particularly the case when children adapt more quickly than their parents to a new language and social system. Migration can serve to reinforce traditional gender roles.

Some countries have laws that particularly disadvantage women migrants as well as native women who marry foreign men. Women may face difficulties in choosing their own nationality. The ability of male spouses to obtain the nationality of their new country may be restricted, even when women spouses of native men are permitted to naturalize. Such provisions violate international human rights law.

Migration can profoundly affect the health and well-being of both migrating women and women staying behind when their spouses migrate. The impact on women's health is complex, involving an interaction of broader determinants of health (including access to health care services) as well as the types of illnesses to which they are exposed. Women migrants who work in hazardous jobs face occupational health problems. Women victims of trafficking are at high risk of injuries and sexually transmitted diseases. Mental health problems, such as depression, may result from the trauma of their situation. Refugee women may suffer from post-traumatic stress disorder with little or no recourse to adequate care, treatment or support owing to the lack of a social support network. The ability of female migrants to access appropriate and affordable health care to address these physical and mental health problems is largely determined by their economic status, their eligibility for health services and insurance coverage, and the availability of linguistically and culturally appropriate care.

The *World Survey on the Role of Women in Development: Women and International Migration* sets out recommendations that, if adopted, will improve the situation of migrant, refugee and trafficked women. The recommendations include ratification and implementation of all international legal instruments that promote and protect the rights of migrating women and girls; review of national emigration and immigration laws and policies in order to identify discriminatory provisions that undermine the rights of migrant women; development of policies that enhance migrant, refugee and trafficked women's employment opportunities, access to safe housing, education, language training in the host country, health care and other services; education and communication programmes to inform migrant women of their rights and responsibilities; and research and data collection, disaggregated by sex and age, that improve understanding of the causes of female migration and its impact on women, their countries of origin and their countries of destination in order to provide a solid basis for the formulation of appropriate policies and programmes.

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I. Introduction

1. At no time in human history have as many women been on the move as today. About 90 million women currently reside outside their countries of origin, representing about half of the world's international migrants. Women have long constituted a significant portion of the world's migrants (Zlotnik, 2003). What is different today is the sheer scale of the migration and the entry of women into migration streams that had previously been primarily male. While many women accompany or join family members, increasing numbers of women migrate on their own. They are the principal wage earners for themselves and their families. A significant number are forced migrants who have fled conflict, persecution, environmental degradation, natural disasters and other situations that affect their habitat, livelihood and security.

2. Studies of migration that do not adequately consider gender perspectives do not take into account the experiences or contributions of the half of all migrants who are female. Yet that is too often the case in the literature on international migration (Morokvasic, 1984). A recent study on gender and migration in Europe concluded, as earlier studies have, that most studies appear to be gender-neutral while utilizing models of migration based on the experiences of men. Women, where their presence is acknowledged, are often treated as dependants, migrating under family reunion, and their contributions to the economies and societies of destination countries ignored (Kofman and others, 2000, p. 3).

3. A gender perspective on migration remedies the limited attention given to the presence of migrant women and their contributions. It begins with the principle that gender is a core organizing principle of social relations, including hierarchical relations, in all societies. It views the migration of women and men as influenced by beliefs and expectations about appropriate behaviours for women and men and between women and men, which are reinforced in economic, political and social institutions. A gender perspective acknowledges the influence of gender inequalities that exist in both origin and destination countries and illustrates how those inequalities can empower women towards change but can also handicap them in the migratory process.

4. A gender perspective on migration extends current understandings about international migration by examining the gender-specific causes of migration, the vulnerability as well as the potential for the empowerment of migrant women and the consequences of international migration. Gender inequality can be a powerful factor in precipitating migration, particularly when women have increased economic, political and social expectations that actual opportunities at home do not allow them to meet. Globalization, with its emphasis on communications, trade and investment, has increased knowledge of options within and outside home countries, and it has opened up a range of new opportunities for women. However, in countries where the effects of globalization have increased poverty and left women with limited economic, social or political rights, international migration may be the best or only way to improve their social and economic situations.

5. The migration experience itself is influenced by gender perspectives. Traditionally, most women have migrated internationally to join husbands or fathers who paved the way for them. Often, their ability to remain in the destination country is contingent on their familial relationships. Today, when more women are migrating

on their own as principal wage earners, they tend to work in traditional female occupations, including domestic work, the garment industry, nursing and teaching. The average earnings of migrant women tend to be lower than those of male migrants.

6. Many women who migrate find themselves at risk of gender-based violence and exploitation. Whether they are labour migrants, family migrants, trafficked persons or refugees, they face the triple burden of being female, foreign and, often, working in dangerous occupations. In addition, it is important to keep in mind that gender intersects with race, ethnicity and religion and can result in differential access to opportunities — among women as well as between women and men. Since many migrant women are of a different race, ethnicity and religion than their host population, they may face additional discrimination on those bases.

7. International migration can also be an empowering experience for women. In the process of international migration, women may move away from situations where they are under traditional, patriarchal authority to situations in which they can exercise greater autonomy over their own lives. According to Hugo (2000, p. 299), who sets out the circumstances in which international migration is most likely to empower women, the migration is from rural to urban areas; the migration is not clandestine or undocumented; women work outside the home at the destination; women move autonomously and not as part of a family group; they enter formal sector occupations; and the migration is a longer term or permanent, rather than a temporary, one. Even when women do not move, but remain behind when their husbands or children migrate, they take on new roles and assume responsibility for decisions affecting the social and economic well-being of their households.

8. When women become economically, socially and politically empowered through international migration, not only do they benefit, but so does the broader community. As Sen (2001, p. 10) states, "The expansion of women's capabilities not only enhances women's own freedom and well-being, but also has many other effects on the lives of all. An enhancement of women's active agency can, in many circumstances, contribute substantially to the lives of all people — men as well as women, children as well as adults".

9. The *World Survey on the Role of Women in Development: Women and International Migration* addresses both the opportunities for empowerment of migrant women and the challenges and vulnerabilities women face in the context of migration. The *World Survey* focuses on all types of international migration, legally authorized and irregular, including movements for family reunification and family formation, labour migration, refugee movements and human trafficking. In all cases, women and girls move across international borders, leaving their home communities behind and facing new challenges and opportunities in the countries of destination. Often one type of movement leads to another — labour migrants bring families to their new homes; refugees flee owing to conflict or persecution but choose their destination on the basis of family connections or employment opportunities; and would-be labour migrants are deceived into becoming victims of trafficking operations.

10. The *World Survey* highlights policy recommendations to improve the situation of migrant women, utilizing relevant United Nations instruments[1] and analysing such issues as family reunification, labour migration, forced migration, human

trafficking, integration of international migrants, and citizenship and nationality from a gender perspective. The *World Survey* raises a number of important issues that policy makers should consider in formulating and implementing policies that recognize and address the linkages between gender equality and international migration:

- What are the factors that cause women to migrate internationally? To what extent has there been a change in patterns of migration, particularly related to the growing participation of female migrants in the labour force?
- What has been the impact of migration and mobility on women's roles and gender relations? In what ways does the status accorded to migrant women (for example, labour migrants, refugees, displaced persons and irregular migrants) affect their rights and opportunities?
- How can migrant women best be empowered to participate meaningfully in decisions about migration and mobility?
- How can migrant women best contribute to the development of their home countries, particularly through such mechanisms as remittances, temporary and permanent return, and the skills and financial resources of diaspora communities?
- How can women best benefit from economic, political and social development so they can obtain employment opportunities, education, health care and other services in their home communities without being forced to migrate?
- How can the rights and safety of migrant women best be protected, particularly from labour abuses, sexual exploitation, trafficking, involuntary prostitution and other exploitable situations?
- How can the economic status of migrant women best be improved to enable them to support themselves and their families in dignity and safety? How can the health status of migrant women best be improved and their access to primary and reproductive health care increased?

A. Background

11. The General Assembly, in its resolution 54/210 of 22 December 1999, requested the Secretary-General to update the *World Survey on the Role of Women in Development* for consideration at its fifty-ninth session in 2004. The *World Survey* focuses on selective emerging development issues that have an impact on the role of women in the economy at the national, regional and international levels. The present report is the fifth *World Survey on the Role of Women in Development*. The *World Survey* was previously issued in 1985, 1989, 1994 and 1999. The 1994 *World Survey* focused specifically on women in a changing global economy, while the 1999 report focused on globalization, gender and work. The 2004 *World Survey on the Role of Women in Development* addresses a key aspect of globalization from a gender perspective, namely the increased movement of people, particularly women, across national borders.

12. With the first World Conference on Women in Mexico City, held in 1975, the United Nations launched a series of world conferences[2] that highlighted the important role women play in development processes as well as the barriers that

exist to involving them fully in such processes. Other major conferences, such as the International Conference on Population and Development, held in Cairo in 1994, reinforced the need to involve women in decision-making on every aspect of economic, social and political development and to mainstream gender perspectives in all programmes and policies.

13. The Programme of Action of the International Conference on Population and Development included a number of specific references to issues of particular concern to migrant women and refugees. It stated that national admission policies should not be discriminatory in nature and that Governments should give special attention to protecting women and child migrants. The Programme of Action urged Governments to recognize the importance of family unity in framing immigration policies and encouraged efforts to foster the positive effects of international migration, including remittances and technology transfer. The Conference highlighted the need to combat trafficking in migrants, with special emphasis on the need to protect women and children trafficked for sexual exploitation and coercive adoption.[3]

14. The Platform for Action of the Fourth World Conference for Women, held in Beijing in 1995, recognized that movements of people have profound consequences on families and have unequal consequences for women and men. The Platform for Action highlighted the vulnerability of migrant and refugee women and children to violence, human rights abuse and sexual exploitation, and included recommendations on the economic and legal empowerment of migrant women, including trafficked women, refugees and displaced persons.[4] The General Assembly, in the outcome document of its twenty-third special session (resolution S/23-3, annex), reiterated that some women and girls continued to encounter barriers to justice and the enjoyment of their human rights because of such factors as their race, language, ethnicity, culture, religion, disability or socio-economic class or because they were indigenous people, migrants, including women migrant workers, displaced women or refugees.[5]

15. Following the Fourth World Conference on Women, the international community has continued to express its concern about the situation of migrant and refugee women. The 2002 World Assembly on Ageing in Madrid highlighted the needs of specific groups of migrants, such as older migrant women. In its resolution 58/208, para. 3, the General Assembly called upon "all relevant bodies, agencies, funds and programmes of the United Nations system and other relevant intergovernmental, regional and subregional organizations, within their continuing mandated activities, to continue to address the issue of international migration and development, with a view to integrating migration issues, including a gender perspective and cultural diversity, in a more coherent way within the broader context of the implementation of agreed economic and social development goals and respect for all human rights". Most recently, the United Nations Permanent Forum on Indigenous Issues, at its third session in 2004, which focused on the theme of indigenous peoples, recommended that the United Nations specialized agencies, funds and programmes, as well as Member States, strengthen their work on migration and its effects on indigenous people and provide appropriate services to displaced refugee and migrant women and girl children victimized by trafficking (E/2004/43, paras. 65 and 89 (h)).

16. The General Assembly considers the issue of trafficking in women and children on a biennial basis, on the basis of information provided by the Secretary-General in his reports to the Assembly. Trafficking in women and children was last considered in General Assembly resolution 57/176 of 18 December 2002, where Governments were urged to strengthen their national efforts to combat trafficking in women and girls and encouraged to implement joint actions at all levels (see para. 7). The resolution included recommendations to prevent trafficking in women and girls, punish perpetrators, and protect and support trafficked women and girls.

17. At its fifty-eighth session, in 2003, the General Assembly emphasized the vulnerability of women and children affected by armed conflict and, in its resolution 58/149, of 22 December 2003, paragraph 33, on assistance to refugees, returnees and displaced persons in Africa, requested Governments, intergovernmental and non-governmental organizations to pay particular attention to meeting the needs of refugee women and children. In his report to the Security Council on women, peace and security (S/2002/1154), submitted in response to Security Council resolution 1325 (2000), the Secretary-General emphasized that women and children are disproportionately targeted in armed conflicts and constitute the majority of all victims as well as the majority of the world's refugees and internally displaced persons. Security Council resolution 1325 (2000), paragraph 10, called on all parties to armed conflict to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse, and all other forms of violence in situations of armed conflict.

18. The General Assembly has increasingly focused on issues related to women and migration, such as violence against women migrant workers, trafficking in women and children, and the impact of armed conflict on women and girls who may find themselves in temporary or permanent refugee or displaced situations.

19. The Secretary-General's report on violence against women migrant workers, (A/58/161) highlighted various measures undertaken by a number of countries to address violence against women migrant workers. Those measures include legislative changes to protect women from all forms of violence, promoting women's access to social security services and ensuring that women migrant workers do not suffer discrimination in employment-related matters. The report also refers to preventive strategies such as education and economic empowerment targeted at potential women migrant workers and regulation of the practices of recruitment agencies and awareness workshops for various officials dealing with migrants or victims of violence. While urging Governments and other stakeholders to continue to expand efforts, particularly with respect to legislation, access to social services, prevention and awareness-raising, the report identifies a lack of comprehensive and timely data as an obstacle to understanding the scale of violence and discrimination suffered by migrant women. It points out the need for improvement of the knowledge base concerning the phenomenon, for extensive sharing of information on lessons learned and good practices and for further information on the gender-specific impact of labour and immigration legislation. Finally, the report stresses the need to explore further the link between migration and trafficking and to address the two issues with a particular focus on protection of women from all forms of violence irrespective of their immigrant status.

20. The General Assembly, in its resolution 58/143, urged Governments, inter alia, to strengthen measures at the international and domestic levels to protect and

promote the rights and welfare of women migrant workers by developing strategies and joint action, and to establish and maintain continuing dialogues to facilitate the exchange of information. It also called upon Governments, in particular those of the countries of origin and destination, to put in place penal and criminal sanctions to punish perpetrators of violence against women migrant workers.

21. A broader role for the United Nations and the international community in managing international migration continues to be a subject of discussion. In his report on the strengthening of the United Nations (A/57/387, para. 39), the Secretary-General stated that the time had come to take a more comprehensive look at various dimensions of the migration issue, with a view to gaining a better understanding of the causes of international flows of people and their complex interrelationship with development. Areas in which the organization is expected to play a key role include data collection, research, coordination of activities among concerned organizations, the provision of advisory services and technical assistance, advocacy, and the promotion of the ratification of existing international instruments related to international migration.

22. At its thirty-third session in 2002, the Commission on Population and Development focused on the theme of population, gender and development. It adopted resolution 2000/1, which reaffirmed the commitment of Member States to the implementation of the Programme of Action of the International Conference on Population and Development. It requested the Population Division of the United Nations Secretariat to continue to incorporate gender perspectives in all its research on population policies, levels and trends, including, inter alia, the analysis of demographic, social and economic data disaggregated by age and sex as well as the gender dimensions of migration.

23. In the 2003 revision of its database, *Trends in Total Migrant Stock*, the Population Division issued new estimates of the number of migrants in each country. The estimates are derived mostly from census data and contained information on the migrant stock for each ten-year period, the percentage of female migrants overall, and the percentage distribution of international migrants by major area or region. The *Report on the World Social Situation, 2003: Social Vulnerability: Sources and Challenges*,[6] prepared by the Division for Social Policy and Development, examined, among other things, the challenges of social integration for migrants, including female migrants, especially in the areas of employment, health and social protection.

24. The report of the Secretary-General on international migration and development (A/58/98) summarizes activities relating to those areas that have been carried out by the United Nations system, including by the United Nations Secretariat, other bodies of the United Nations system and key entities outside the United Nations, such as the International Organization for Migration. To support the ongoing discussions on international development and migration, the *2004 World Economic and Social Survey* focuses on international migration and development, including the gender dimensions of international migration.

B. Trends in international migration

25. The number of international migrants has grown steadily in the past four decades to an estimated 175 million in 2000, up from an estimated 75 million in 1960 (United Nations, 2003c). As of 2000, about 159 million persons were classified as voluntary migrants, with the remaining 16 million being refugees (see table 1). Even with the numbers of international migrants large and growing, it is important to keep in mind that the proportion of international migrants in the world's population is considered to be less than 3 per cent. The estimates available indicate that the number of international migrants constituted 2.5 per cent of the world's population in 1960, 2.2 per cent in 1970, 2.3 per cent in 1980 and 2.9 per cent in both 1990 and 2000 (United Nations, 2003a). The propensity to move internationally, particularly in the absence of compelling reasons such as wars, is limited to a small proportion of humans. The proportion of international migrants is far higher in and from certain countries, however. For example, estimates suggest that about 9 per cent of the Mexican population lives in the United States of America (ibid.)

26. Three factors must be present for migration to take place: demand or pull from receiving communities or countries; supply or push from source communities or countries; and networks to link the supply with the demand. Networks are often family- or community-based, although labour recruiters may also stimulate movements. Migrants tend to go to places in which their relatives, friends and community members are already located. Those already settled in the new community or country provide many needed services, not the least of which is finding jobs or helping the newcomer obtain other sources of support. The networks explain why migrants from the same communities often move to the same location in the same country of destination. They also explain why the same set of push or pull factors in different countries lead to very different migration experiences. If the networks are not functioning, the supply and demand may not find each other.

27. A number of factors have contributed to the increase in international migration, including the following:

- Economic globalization — which linked the economies of source and destination countries together — led to trade agreements that contain provisions for mobility of international personnel, goods and services, prompting the growth of multinational corporations that move their personnel between countries and across the globe
- Demographic trends, with many developed countries facing population stagnation and ageing while developing countries continue to grow faster than their job markets can absorb new workers
- The transportation revolution that has made migration affordable to millions of would-be migrants
- The revolution in communications (Internet, cellular phones) that informs would-be migrants of opportunities outside their home countries and allows them to keep in touch with families and communities left behind
- The growth in transnational communities with growing numbers of persons with dual or multiple nationalities and citizenship who remain involved in the countries of their birth as well as their countries of destination.

Table 1
International migration 1960-2000

Major area, region, country or area	*Estimated number of international migrants at midyear (Both sexes)*				
	1960	*1970*	*1980*	*1990*	*2000*
World	**75 900 698**	**81 527 177**	**99 783 096**	**154 005 048**	**174 933 814**
More developed regions	32 084 671	38 282 819	47 726 643	89 655 849	110 291 047
More developed regions without the former USSR	29 142 984	35 190 307	44 475 573	59 333 317	80 822 344
Less developed regions	43 816 027	43 244 358	52 056 453	64 349 199	64 642 767
Least developed countries	6 254 996	7 126 628	9 043 303	10 992 041	10 458 106
Africa	8 977 075	9 862 987	14 075 826	16 221 255	16 277 486
Asia	29 280 680	28 103 771	32 312 541	41 754 291	43 761 383
Europe	14 015 392	18 705 244	22 163 201	26 346 258	32 803 182
Latin America and the Caribbean	6 038 976	5 749 585	6 138 943	7 013 584	5 943 680
Northern America	12 512 766	12 985 541	18 086 918	27 596 538	40 844 405
Oceania	2 134 122	3 027 537	3 754 597	4 750 591	5 834 976
USSR (former)	2 941 687	3 092 512	3 251 070	30 322 532	29 468 703

Source: Population Division of the United Nations, *Trends in Total Migrant Stock: The 2003 Revision*, diskette (New York, United Nations, 2003).

28. In the past decade, many countries, particularly those ending years of restrictive emigration policies, have eliminated their barriers to the movement of their nationals abroad. The changing geopolitical situation has also caused the formation of new States, particularly in the former Soviet Union.[7] In that area the Russian Federation has become one of the largest recipients of international migrants, but many of those now counted in this category would have been internal migrants prior to 1990.

29. Sixty per cent of the world's migrants reside in the more developed regions and 40 per cent in the less developed regions. According to the Population Division, almost one in every 10 persons in the more developed regions is a migrant, whereas only one in every 70 persons in the developing countries is a migrant. Between 1960 and 2000, the number of international migrants in Australia, Japan and New Zealand and in Europe, Northern America and the successor States of the former Soviet Union increased by 78 million persons, whereas the number in less developed regions rose by 27 million. The United States is the largest recipient of international migrants, with 35 million migrants in 2000, followed by the Russian Federation (13 million), Germany (7 million), Ukraine, France and India. The countries with the highest percentage of international migrants relative to total population are the United Arab Emirates (74 per cent), Kuwait (58 per cent), Jordan (40 per cent), Israel (37 per cent) and Singapore (34 per cent).

30. While some migration is global in scope, significant levels of immigration occur within the same region, generally from low-income to mid-income countries. In Latin America, for example, regional destinations include Costa Rica for

Nicaraguan migrants, the Dominican Republic for Haitian migrants and Argentina for Bolivian migrants. Similarly, Southern Africa (including South Africa, Botswana and Lesotho) is a key destination region for migrants from elsewhere in Africa. In South-East Asia, considerable migration takes place from Indonesia, the Philippines and Thailand to Hong Kong Special Administrative Region (SAR) of China, Malaysia, Singapore and Taiwan Province of China. In Southern Asia there is continuing migration from Afghanistan, Bangladesh, Bhutan, Myanmar and Nepal to India. India has also received refugees from Sri Lanka and Tibet.

31. In summary, international migration is a global phenomenon. In fact, few countries are unaffected by international migration. Many countries are sources of international flows, while others are net receivers, and still others are transit countries through which migrants reach destination countries. Such countries as Mexico and India experience migration in all three capacities: as source, as receiving and as transit countries.

C. Trends in the international migration of women

32. The migration of women has always been an important component of international migration. As of 2000, 49 per cent of all international migrants were women or girls, up from 46.6 per cent in 1960 (United Nations, 2003a), and the proportion of women among migrants reached 51 per cent in the more developed regions. Europe had the highest proportion of female migrants and Western Asia and Southern Africa had the lowest (see table 2).

33. The gender distribution of international migrants varies substantially by country. The proportion of legal immigrants who are women is particularly high in the traditional immigration countries (Australia, Canada and the United States). In 2002, for example, 54 per cent of legal immigrants to the United States were women (United States, 2002). In places that permit only temporary migration, the proportion of men migrating may be higher, particularly if admission is limited to certain types of occupations typically dominated by men (for example, construction workers, miners or information technology workers). Gender differences can be seen among different emigration countries. While the Philippines have a considerably higher proportion of female migrants living abroad (approximately 60 per cent according to data collected during the 1990s), Mexico has many more male emigrants (69 per cent according to a census conducted in 1995) (International Labour Organization, 1999).

34. Gender relations and gender-specific behaviours at the individual, family and societal levels have an influence on whether women will migrate internationally:

> "Individual factors include age, birth order, race/ethnicity, urban/rural origins, marital status (single, married, divorced, widowed), reproductive status (children or no children), role in the family (wife, daughter, mother), position in family (authoritative or subordinate), educational status, occupational skills/training, labour force experience and class position. Family factors include size, age/sex composition, life-cycle stage, structure (nuclear, extended, etc.), status (single parent, both parents, etc.), and class standing. Societal factors include those community norms and cultural values that determine whether or not women can migrate and, if they can, how (i.e. labour or family reunification) and with whom (alone or with family)" (Boyd and Grieco, 2003, p. 3).

Table 2
Female migration: 2000

Major area, region, country or area	*Estimated number of female migrants at midyear*				
	1960	*1970*	*1980*	*1990*	*2000*
World	**35 469 362**	**38 507 161**	**47 156 135**	**73 817 887**	**85 080 716**
More developed regions	15 629 174	18 742 613	23 882 284	45 347 826	56 228 897
More developed regions without the USSR (former)	14 203 958	17 259 476	22 306 792	29 860 914	40 896 880
Less developed regions	19 840 187	19 764 548	23 273 851	28 470 062	28 851 819
Least developed countries	2 896 736	3 323 332	4 129 540	5 102 639	4 929 009
Africa	**3 794 583**	**4 208 331**	**6 216 156**	**7 441 517**	**7 595 140**
Eastern Africa	1 293 119	1 475 861	2 301 832	2 875 736	2 172 969
Middle Africa	590 194	826 174	885 992	678 235	688 812
Northern Africa	736 578	463 260	705 274	1 047 756	832 620
Southern Africa	295 111	315 178	391 477	559 760	652 419
Western Africa	879 580	1 127 858	1 931 582	2 280 030	3 248 320
Asia	**13 572 729**	**13 096 395**	**14 340 682**	**17 862 959**	**18 936 075**
Eastern Asia	1 278 511	1 420 383	1 785 838	2 102 777	2 960 174
South-central Asia	8 522 472	7 910 720	7 626 765	8 679 779	6 607 013
South-eastern Asia	1 996 622	1 650 835	1 386 772	1 444 668	1 994 868
Western Asia	1 775 123	2 114 447	3 541 309	5 635 735	7 374 020
Europe	**6 799 126**	**8 981 401**	**10 752 040**	**13 120 718**	**16 736 713**
Eastern Europe	1 839 170	1 564 127	1 396 956	1 289 489	1 547 640
Northern Europe	1 146 007	1 971 053	2 397 504	2 741 423	3 223 267
Southern Europe	746 303	966 136	1 211 280	1 853 954	2 736 125
Western Europe	3 067 646	4 480 085	5 746 300	7 235 852	9 229 682
Latin America and the Caribbean	**2 702 258**	**2 690 034**	**2 957 603**	**3 497 251**	**2 983 844**
Caribbean	204 522	288 102	362 570	433 491	523 755
Central America	226 661	200 950	276 194	940 403	531 621
South America	2 271 075	2 200 983	2 318 839	2 123 357	1 928 467
Northern America	**6 227 246**	**6 638 354**	**9 516 257**	**14 074 660**	**20 543 473**
Oceania	**947 643**	**1 408 956**	**1 797 350**	**2 333 426**	**2 945 035**
Australia/New Zealand	910 724	1 354 625	1 713 969	2 228 821	2 818 208
Melanesia	20 306	36 923	39 807	39 724	37 536
Micronesia	11 493	8 275	25 776	38 030	53 275
Polynesia	5 120	9 133	17 798	26 851	36 016
USSR (former)	**1 425 777**	**1 483 690**	**1 576 046**	**15 487 356**	**15 340 437**

Source: Population Division of the United Nations, *Trends in Total Migrant Stock: The 2003 Revision*, diskette (New York, United Nations, 2003).

35. In an early, seminal work, Thadani and Todaro (1984) described four principal types of women migrants, distinguished by their marital status and their reasons for migrating: (a) married women migrating in search of employment; (b) unmarried women migrating in search of employment; (c) unmarried women migrating for marriage reasons; and (d) married women engaged in associational migration with no thought of employment. Women appear to be more likely than men to migrate to join or accompany other family members or because of marriage, but this type of associational migration is not unique to women, as was pointed out in early work on migrant women (United Nations, 1993). Some men also move for associational reasons. As educational and employment opportunities open for women, they are also increasingly migrating as foreign students and workers.

36. International migration often succeeds internal movements of women, particularly to urban areas. The draw of export-oriented factories is strong in Asia, Latin America and Africa (United Nations, 2002c). For families and households, the migration of women into factory jobs, as well as into domestic and service labour, may be an important way to reduce the risks that subsistence agriculture poses when crops fail, particularly during drought. Employers, however, may hire female migrant workers because they appear to be "more docile and cheaper workers than men" (Hugo, 1993). In some cases, young women employed in factories in their home countries learn skills they can transfer to better-paying jobs in developed countries. In other cases, migration may take place as a result of lost economic opportunities in the home country. Skeldon explains the complicated processes at work:

> "Gender relations in this scenario are particularly important. First, women, as lower paid labour, enter into direct competition with men that may result in increased male unemployment. Second, women as a lowly paid and vulnerable labour force may face dismissal after a few years as younger, less experienced women become available from more recently contacted rural areas to take their place. Both processes lead to a pool of the unemployed that has both the aspirations and the wherewithal to leave to seek work overseas. Thus, the city or exporting zone becomes a 'step' in a hierarchical pattern of migration from village to town and then overseas" (Skeldon, 2003, pp. 8-9).

D. Data limitations

37. A dearth of data on women and migration makes it difficult to assess the full implications of migration and mobility for women. Data on international migration are lacking in terms of availability, quality and comparability. Statistics on international migration are far from reaching universal coverage and are often published without a classification by sex and age. Governments collect most data as part of their administrative management of migration. Those data provide useful information about the flow of migrants into or out of a country, although most administrative data refer to inflows, and not outflows. Census data are another important source of information about foreign nationals. These data generally provide information about the stock of foreigners, that is, the persons who are residing in a country at the time of the census. Since migrants generally constitute a small portion of the population, censuses often contain only minimal information about them. Special surveys may be needed that allow an over-sampling of migrants

in order to learn about the intersection of such characteristics as sex, age, nationality, education and occupation.

38. Since international migration involves a geographical move from one country to another, international migrants can be defined as persons born in a country other than that in which they reside. Thus, international migrants are equated with the foreign-born, who usually can be identified from census data. In some countries, however, the censuses have not recorded the country of birth of the persons enumerated. In those cases, information on citizenship is used to estimate the migrant stock. In addition, there are some other critical problems of data availability and comparability. For example, duration of residence in the destination country is often not specified. The particular legal status of the migrants may also be missing.

39. Differences in statistical definitions derive, in part, from differences in policies. Countries with expansive notions of birthright (*jus soli*) citizenship, such as the United States or Ireland, grant citizenship to all children born on the territory. Such countries are likely to keep data on "foreign born", who may be foreign nationals or naturalized citizens, and "native born", who may have been born to citizens or immigrants. In other countries, citizenship is derived from a parent's nationality (*jus sanguinis*), and children of immigrants born in the country may be considered "foreigners" along with their parents. Those differences make it difficult to compare data across countries.

40. Data on certain categories of migrants, for example those who cross borders without the authorization of host countries, are particularly difficult to collect. Many of these migrants without legal status are fearful of stepping forward for censuses and surveys. Often the data on departures from source countries do not match the data on entry into destination countries, but it is difficult to determine the reasons for the disparities.

41. A further difficulty particularly relevant to the present report is obtaining accurate demographic breakdowns of the migrant populations in order to assess the situation of migrants by sex and age. Requiring gender-based analysis of migration policies and programmes may help stimulate collection of sex and age disaggregated data. For example, Canada's Immigration and Refugee Protection Act, which came into effect in June 2002, includes a legislative requirement to report annually on the impact of the new legislation and the corresponding regulations from the perspective of gender-based analysis (Citizenship and Immigration Canada, 2003, p. 24).

E. Organization of the *World Survey on the Role of Women in Development*

42. Chapter II covers in detail gender equality and the international migration of women. Chapter III explores the nexus between migration, poverty eradication and sustainable development. Chapter IV focuses on migration for family and work purposes, including the international and legal frameworks for managing those movements and protecting migrant workers. Chapter V addresses forced migration, presenting the experiences of refugees and displaced women. Chapter VI is concerned with the important and growing problem of human trafficking and smuggling. Chapter VII considers the integration of migrant women in host countries and the impact of migration on gender roles and relationships, and also

outlines issues related to naturalization, citizenship and civic participation. Chapter VIII deals with the important ramifications of migration on the health of women, with particular reference to the human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS). The *World Survey* concludes with recommendations for a gender-responsive policy agenda on international migration at both the national and international levels.

II. Gender equality and international migration

43. Women are active participants in migration, both within and between countries. Previous approaches to documenting and understanding migration are limited in terms of specific attention to the migration of women. Existing frameworks ignore women's participation and contributions or assume that the causes and consequences of migration are similar for women and men, thus ignoring how both migration processes and their outcomes differ for women and men.

44. It is important to understand the causes and consequences of international migration from a gender perspective. A gender perspective avoids the dangers of treating women's migration as a special case and/or as deviant from men's migration, and highlights women as agents of change throughout the migration process. At the same time, the concept of gender also directs attention beyond noting similarities and differences to emphasizing how the experiences of women and men in the migration process are often based on and perpetuate gender inequality. Increased understanding of the situation of migrant women should lead to concrete policies, programmes and actions to mitigate such inequalities and promote gender equality for migrant women.

A. Understanding gender equality and migration

45. Gender refers to the social meanings associated with being male or female, including the construction of identities, expectations, behaviour and power relationships that derive from social interaction. Those identities, practices and inequalities are, in turn, embodied in the social roles of women and men, in gender relations and in gender hierarchies (power relations between women and men) (Hondagneu-Sotelo, 1994; Scott, 1986). Gender is derived from social relations and cannot be seen as fixed and invariant over time and space, differing in this respect from the term "sex" which refers to the biological attributes of women and men.

46. The term "gender" acknowledges that ideologies, behaviours and practices with respect to women and men are socially learned and that gender norms, practices and hierarchies vary within regions, across societies and time, and are subject to change. It also recognizes that such norms, practices and hierarchies may intersect with other socially constructed categories, such as those of race, ethnicity and/or class. In addition, relations of power — the capacity to control or influence others — are key elements in the social construction of gender. Asymmetrical relations of power between men and women exist because of prevailing gender norms and practices. However, the asymmetries are also embedded in societal institutions, ranging from the family and the educational system to the political and economic systems and the legal system. They are associated with unequal access to resources, diminished social and economic status, vulnerability to abuse and

violence, and reduced life chances. Women are usually disadvantaged relative to men.

47. As a central organizing principle of society, gender is central in any discussions of the causes of international migration — the decision-making involved and the mechanisms associated with enacting migration decisions — and the consequences of migration. In spite of this, most research and discussion on migration does not pay specific attention to the gender perspectives of migration, in terms of both the differences and inequalities in the experience of migration processes and the contributions, needs and priorities of female and male migrants. Critics have shown that past approaches to migration fail both to represent the situations of women and to acknowledge the unique causes and consequences of migration for women (Chant and Radcliffe, 1992; Grieco and Boyd, 1998; Kofman et al., 2000).

48. Even more recently developed approaches to research on the causes and consequences of international migration continue to fail to take into account the situation of migrant women. For example, the frameworks that adopt a multilevel integrative approach to understanding migration — including macro-, meso- and microfactors that correspond to analytical units consisting of individuals, groups or organizations and nations — make a major contribution in enhancing understanding of the factors causing migration; the context in which migration decisions are made and enacted; the type of migration; and the continuation of migration. There is increased understanding that an individual's decision to migrate is influenced not only by her or his agency, but also by membership in social groups, by the existence of groups and networks organized to move people and by overall economic or political conditions. However, analyses do not adequately consider the differences and inequalities between women and men in those contexts. The recent importance placed on the family or household as a site of decision-making has been criticized for the failure to recognize that gender hierarchies exist in families and households and that the inequalities permeate migration decisions and outcomes. Similarly, discussion of the importance of networks in fostering migration and settlement fails to reflect more fully the fact that women and men may differ in access to networks and to the resources, such as information and offers of assistance, that flow through the networks.

B. Incorporating gender perspectives in migration

49. A gender perspective on international migration thus explicitly recognizes that gender is a core organizing principle of social relations, including hierarchical relations, and shapes the migration experiences of women and men. A gender perspective goes beyond the differences between women and men in relation to migration behaviours — such as the likelihood of migrating or the type of migration — and focuses explicitly on the inequalities that also exist. Incorporating gender perspectives into analyses advances understanding of the different and often unequal experiences of women and men in migration, and facilitates formulation of interventions that take into account the needs, priorities and contributions of women as well as of men.

50. Efforts have been made to increase the attention given to gender perspectives in migration. Fuelled by concerns about the situation of migrant women,

considerable specific research has already been carried out on the migration of women (Chafetz, 1999; Jaggar, 1983; Lorber, 1998). Efforts have been made to use that research to influence some aspects of existing "gender-blind" frameworks for understanding migration. More recently, attempts have been made to implement gender mainstreaming or to systematically identify and address gender perspectives in all aspects of migration.

51. A gender-specific approach to international migration is consistent with broader initiatives for gender equality and the empowerment of women in all societies. Incorporating a gender perspective in work on migration requires attention to four questions. Firstly, how do the expectations, relationships and hierarchies associated with being female or male affect the potential for migration and the processes of migration for women and men? Secondly, how do gender inequalities in receiving societies affect the experiences of migrant women and men? Thirdly, to what extent and in what ways does migration benefit or disadvantage women and men? Fourthly, what steps must be taken to ensure equal opportunities and outcomes for migrant women and men? Answering those questions will reveal how gender inequalities can influence the migration patterns of women and men; how, in turn, migration perpetuates, diminishes or recasts gender inequalities; and which are the areas where interventions may be needed to ensure gender equality.

C. Gender perspectives on the causes and consequences of migration

52. Participation of women in international migration reflects their social roles, their capacity for making decisions and exerting autonomy, their access to societal resources and the existing gender stratification in origin and destination countries. Experiences vary depending on whether movement is voluntary or involuntary and whether entry into the host society occurs legally or not. The specific findings of the *World Survey*, however, illustrate the following generalizations regarding the causes and consequences of migration for women.

1. Causes of migration

53. For both women and men, economic and political conditions provide the general context within which migration decisions are made and international migration occurs. However, the decision to migrate depends on gender relations and gender stratification at different levels. When policies and practices that discriminate against women are in place — in relation, for example, to access to resources, educational opportunities and political participation — women's capacities to participate and contribute fully in society are diminished. Such conditions affect the potential of women to migrate and whether they migrate autonomously or with other family members.

54. Labour migration illustrates the preceding interrelations between gender relations, gender hierarchies and migration. In situations where economic survival is precarious, families may reduce survival risks if one or more members leave to work in other locations. However, gender norms and relations govern who — women or men — migrates in countries of origin. Factors that diminish women's independent migration include gender norms about the inappropriateness of women migrating autonomously, the constraining effects of their family roles, the lack of women's social and economic independence and the absence of networks that

provide information about how to enter a country or find employment. Strong demand for men's labour in destination countries, and the risks of detention and rape that may accompany unauthorized migration, also deter women's migration (Kanaiaupuni, 2000).

55. Specific conditions govern the extent of labour migration of women. Firstly, gender-specific labour demand in receiving countries (predicated on gender norms and hierarchies in those countries) stimulates the migration of women. For example, while neutral in expression, labour demand for domestic workers, nurses and entertainers is, in fact, targeted at the recruitment of women. Secondly, in source countries, a gender-specific labour supply is produced by gender norms and stereotypes, with training programmes and internal occupational demand defining certain occupations, such as nursing and domestic work, as more suitable for women. Recruitment organizations, either private or State-based, in source countries also reinforce such gender stereotypes. Thirdly, in source societies gender-specific expectations about reciprocity may also favour the migration of women. Where daughters are expected to exhibit filial loyalty to a greater extent than their brothers and are seen as more likely to remit, their migration may be encouraged rather than restricted by parents (Chant and Radcliffe, 1992; Curran and Saguy, 2001). Fourthly, migration of women is related to empowerment. Studies note that women's migration is higher when women's earning potential is more highly valued and when they have access to local labour markets and income-generating activities (Chant and Radcliffe, 1992). However, access to local resources may dampen migration; a recent study finds that land ownership depresses the outmigration of Mexican women (Kanaiaupuni, 2000).

2. Consequences of migration

56. International migration has consequences for those remaining in the societies of origin and for those who move elsewhere. Gender relations and gender hierarchies in both source and destination countries determine the gender-specific impacts. Where men rather than women migrate, and where kinship norms and practices build on gender relations in which women are dependent on men, women remaining in countries of origin may find themselves co-residing with relatives and restricted in their activities. Many women are the unacknowledged heroines in the larger migration agendas of families. In the absence of male relatives, women who remain in the communities of origin must assume or increase income-generating activities to compensate for income lost when men migrate or when erratic or meagre remittances follow. Adding financial responsibilities to other pre-existing responsibilities, such as child-rearing, can create considerable stress and result in women subsidizing male migration. However, the potential also exists for such income-generating activities to increase the autonomy and empowerment of women.

57. The effects of pre-existing gender inequalities are often increased for women who move as refugees or displaced persons and for those who are trafficked. The *World Survey* shows that gender hierarchies persist in refugee settlements. Practices that give men greater control over resources and greater decision-making capabilities can have deleterious effects on the capacity of women to obtain protection from physical violence and abuse, to access food and health care and to undertake income-producing activities. Women who are trafficked are perhaps the most vulnerable of all migrant women, as the process of trafficking by definition is one that involves exploitation, coercion and the abuse of power. Trafficking builds

on existing gender inequalities. Trafficked women frequently originate from regions where opportunities for women are low and where they are dependent on others and lack independent access to resources to alter their situations. Strategies need to be developed to protect and empower women in those situations.

58. Gender is also a basic organizing principle in the societies to which women migrate. Gender relations, gender hierarchies and the gender-specific practices and policies found in social, economic, legal and political institutions in host societies all condition the impact of migration for women. The legal status of migrant women, the gender norms implicit in immigration regulations and general attitudes to migrants — whether they are perceived as sojourners or new members of society — are also important factors influencing the subsequent experiences of migrant women and the impact of their migration on countries of destination.

59. Conventions, laws and practices governing the rights of women and migrants in receiving countries affect migrant women. In particular, women who are recruited as domestic workers or who enter illegally represent vulnerable groups. Depending on the receiving country, they may have little legal protection from abuse. Migrant women are also affected by existing gender inequalities in the receiving society. Gender-based labour market segmentation in receiving countries — and the related existence of traditionally female jobs such as nursing, secretarial work and seamstress work — mean that migrant women are often employed in gender-specific occupations that typically pay less than traditionally male occupations. Thus, earning inequalities between women and men may persist within migrant households. Further, North American and European studies, such as Basu and Altinay (2003), show that family businesses and ethnic enterprises incorporate gender norms and practices that devalue women's contributions. Migrant women may be unpaid family workers or have low wages and fewer opportunities for mobility than men.

60. Nonetheless, migrant women's employment and earnings, and their exposure to the gender relations in host societies, often instigate changes in gender relations between family members and enhance migrant women's autonomy and empowerment. Outcomes are not, however, straightforward. Gains may be made at the household level, for example when men undertake more domestic work, but there may be less progress at other levels, such as within places of employment or in ethnic associations. Moreover, some familial practices or customs, which may be viewed by outsiders as problematic, may not be seen as such by migrant families, including migrant women (Pessar, 1999; Zentgraf, 2002).

61. It should be recognized that migrant women display considerable agency. They are contributors to improvements in the lives of both men and women and are active instigators of change. In countries of origin, women underwrite the migration of others; not only do they undertake income-generating activities, but they also maintain kinship networks that provide assistance for migration and for subsequent employment (Salaff, 1997). As migrants, women are sources of remittances that may be used to improve the well-being of other family members and/or foster economic growth; they thus act as resources for development. As guardians of family ties across origin and destination countries (Chant and Radcliff, 1992; Tacoli, 1999), women also develop their own networks, which in turn stimulate and facilitate the migration of other women. In countries of destination, migrant women work to improve their own and their family's standards of living, and they often

influence or advocate for changed gender relations within their families. In many countries, they also initiate and participate in non-governmental organizations that lobby for gender equality.

III. Migration, poverty reduction and sustainable development

62. The migration-development nexus incorporates two elements: the ways in which development processes, including development assistance, can reduce pressures for unwanted migration, particularly irregular movements of people, and the ways in which migrants can be a resource for poverty reduction and sustainable development in their home communities. Gender inequalities in source countries interact with these elements: women and men are differentially affected by development strategies (Chant and Radcliffe, 1992), and women and men may differ in the ways or in the extent to which they act as resources for development.

A. Preventing irregular flows of migrants

63. Providing the means by which people can stay at home and enjoy greater economic opportunity is an important aspect of the migration-development nexus. Migration should be voluntary on the part of the migrant and the receiving community, not forced by economic or political conditions in the home community. Similarly, migrants should be able to return voluntarily to home communities that are economically stable and safe. Women should not be forced to leave or remain away from home owing to gender-based inequalities and repression. No one strategy is sufficient to overcome the economic, social and political problems that compel international movements. Rather, there needs to be a combination of trade, foreign direct investment (FDI), and official development assistance (ODA) as well as support for human rights and democratization.

64. Economic and social development, including respect for the rights of women, is the best long-term solution to the pressures that force people to move unwillingly. When women have adequate economic opportunities at home, they may choose voluntarily to relocate, but they will not be forced to violate immigration rules or be ensnared by traffickers. In the short- to medium-term, however, the development process itself can stimulate a high level of mobility, including international migration. The process of development often precipitates large-scale movements out of rural areas into towns and cities. As women move from rural to urban areas within their own countries, they find out about opportunities for international migration. Internal migration may also empower women in a manner that allows them to migrate internationally, for example, providing them skills that they can use in manufacturing and service jobs in the urban areas of wealthier countries.

65. A major challenge is to identify ways to stimulate development to reduce emigration pressures. For example, some Governments have recommended that the offer of ODA be contingent on the willingness of source countries to deter their nationals from migrating and to accept back their nationals deported from the aid-giving countries. That approach may penalize the countries that most need aid. It may also encourage repressive policies to prevent emigration, leading to more illegal migration.

66. Other approaches would focus ODA on emigration areas to reduce the economic need for migration and facilitate return when possible. For example, the co-development approach seeks to target ODA at emigration areas, with government support supplementing the contributions of migrants to their home communities (Weil, 2002). Assistance may also be provided to migrants who voluntarily return, in the form of a grant of funds to begin small businesses. A drawback of this approach is that it may target ODA at better-off communities that can support the migration of their residents and benefit from remittances.

B. Migrants as a resource for poverty reduction and development

67. Migrant women contribute to the economic and social development of their country of destination and their country of origin through their financial contributions from remittances, the improvement of their own skills and their contribution to the improvement of the education and skills of the next generation. The impacts are felt in three principal areas: financial contributions through financial and social remittances, investments by diasporas, and human capital gains when migrants return.

1. Remittances

68. Individual remittance transfers continue to be an important source of income for many families in developing countries. In 1990, international migrants sent about 30 billion United States dollars ($) to developing countries (see table 3). As of 2003, according to conservative estimates by the International Monetary Fund (IMF), international remittances to developing countries exceeded $90 billion per year (International Monetary Fund, 2004). Since ODA seldom exceeds $60 billion per year, international migrants are contributing more financial resources to their home countries than are contributed by developed countries (Organization for Economic Cooperation and Development, 2002). ODA and remittances reach different countries and constituencies.

Table 3
Regional distribution of remittances
(Billions of United States dollars)

	1990	*1995*	*2001*	*2002*	*2003*
East Asia and Pacific	3.0	9.9	13.7	17.0	17.6
Europe and Central Asia	3.2	5.6	10.2	10.3	10.4
Latin America and Caribbean	5.7	12.9	22.9	26.8	29.6
Middle East and North Africa	11.4	10.0	13.2	13.0	13.0
South Asia	5.6	10.0	13.1	16.9	18.2
Sub-Saharan Africa	1.5	2.7	3.9	4.1	4.1
Total	**30.4**	**51.2**	**77.1**	**88.1**	**93.0**

Source: International Monetary Fund, and World Bank, "Global monitoring report 2004: policies and actions for achieving the MDGs and related outcomes" (DC2004-0006) (Washington, D.C., 2004).

69. Although not much is known about differences in remitting behaviour between migrant men and migrant women, some evidence suggests that migrant women remit more of their income to their families than male migrants, perhaps because of gender expectations regarding family contact and filial obligations (Chant and Radcliffe, 1992; Curran and Saguy, 2001; Tacoli, 1999). The higher share of income that women remit appears to be the case for both international migrants and internal migrants. One study of remitting behaviour in South Africa concluded that "employed migrant men are 25 per cent less likely than employed migrant women to remit" (Collinson and others, 2003, p. 12). However, migrant women often earn less than their male counterparts, so the total revenue available for remittances may be lower. Studies of remitting behaviour of internal migrants show that a woman's age and marital status are more important in determining whether she migrates or not than a man's, and single female migrants in northern China tend to remit a lower proportion of their income than married male, married female and single male migrants (De Haan, 2000, pp. 5-6).

70. Some of the literature is highly critical of remittances as a resource for development, observing that money sent back by foreign workers is spent largely on consumer items. Only a small portion is invested directly in productive activities. Excessive consumerism can lead to inequities, with remittance-dependent households exceeding the standard of living available to those without family members working abroad. Often, government attempts to encourage or require the investment of remittances lead to few economic improvements. Importantly, remittance flows tend to be higher when parents are separated from children for long periods.

71. The preceding criticisms understate some of the positive aspects of remittances as a resource for development. Owing to the sheer scale of remittance transfers, they have become an important contributor to positive balance of payments (Republic of Turkey, 2004). There are also advantages to the "people-to-people" aspect of remittances. While ODA generally goes to Governments, which make decisions about its use, remittances go to families, including many women-headed households, who use the funds in the manner they believe most conducive to meeting their own needs. Not only does this process help reduce poverty by providing additional income to poor households, it empowers the women who receive the remittances and make decisions about their use.

72. In addition, remittances are often used for investment and to augment savings. According to the World Bank (2003, p. 157), "Remittances are often invested by the recipients, particularly in countries with sound economic policies. Improvements in policies and relaxation of foreign exchange controls in the 1990s may have encouraged the use of remittances for investment". Even consumer use of remittances can stimulate economic development, particularly when households spend their remittances locally. The multiplier effects of remittances can be substantial, with each dollar producing additional dollars in economic growth for the businesses that produce and supply the products bought with these resources. The World Bank found that remittance flows are a more stable source of revenue for many countries than foreign trade, foreign direct investment and foreign aid (World Bank, 2003). Families receiving remittances often use them to improve education, health care and nutrition, all of which are important contributors to economic and social development.

73. Remittance flows are particularly important in reducing poverty, especially among the women-headed households and older persons receiving this form of support. According to research conducted for the World Bank, "international remittances — defined as the share of remittances in country GDP — have a strong, statistical impact on reducing poverty. On average, a 10 per cent increase in the share of international remittances in a country's GDP will lead to a 1.6 per cent decline in the share of people living in poverty" (Adams and Page, 2003, p. 1). The impact on rural households is particularly strong:

> "For example, evidence from rural Egypt suggests that international migration had both a direct and an indirect impact on the poor. Remittances earned from working abroad went disproportionately to the poorest households in rural Egypt. In indirect terms, the widespread migration of unskilled workers from rural areas reduced the pool of agricultural workers, and this in turn boosted real agricultural wages. In addition, a large share of remittance earnings was invested in private housing and construction, and this served to increase employment (and income-earning) opportunities for the unskilled, rural poor" (Page and van Gelder, 2002, p. 9).

74. While remittances hold promise for development and poverty reduction, they are by no means a substitute for ODA. Although remittances may help alleviate poverty in families with migrants, remittances do not reach everyone in need and may thus increase inequality. Moreover, remittances depend on contributions from people who may themselves be living in poverty. Migrant women in particular are often the poorest residents of their host countries but they are responsible for a significant portion of remittances. They may not be investing in their own living conditions, health care, nutrition and education in order to continue to send money home.

75. Since the cost of migration can be very high, remittances are also used to pay off the debts accumulated by the migrant and her family. Migrants who cross borders with the help of smugglers often go into debt bondage, sending most of their earnings to the smugglers before they are able to remit to their families. Even migrants who use legal channels for migration may have to pay high fees to recruitment firms and Governments to obtain permission to exit their countries and work in another country.

76. The cost of remitting money to home communities has been an area of particular concern. Transfer costs can be exceedingly high, often regressive, and may disproportionately fall on migrant women, whose earnings are often lower than men. The market appears to be responding to the situation, with greater competition leading to lower transfer costs, but more needs to be done in the area. The Multilateral Investment Fund of the Inter-American Development Bank supports programmes to enable the transmission of remittances through financial institutions that work with low-income clients, such as credit unions and microfinance institutions. Improving access to less expensive legal avenues for migration would clearly increase the amount of remittances reaching developing countries or, alternatively, allow the migrant to retain more earnings for her own support.

77. Financial literacy training for senders and recipients of remittances could also help increase the pay-off from these resources, particularly in educating migrants and their families about the best ways to transfer and invest the money. One study in Honduras found that the majority of recipients of remittances are "middle-aged or

older women, with few years of schooling or illiterate, and insufficient financial information to make decisions about monetary exchange, expenses, investment and savings. Some or all these transactions are required to efficiently manage the productive use of the funds received" (Puerta, 2002, p. 17).

2. Diasporas and social remittances

78. Investment by migrant communities, known as diasporas, may be a more focused way than individual remittances to stimulate economic development. Expatriate associations raise and remit funds that support infrastructure development and income-generation activities in the communities from which they originate. A notable example is China, where approximately 70 per cent of the total foreign direct investment to the country originates with the Chinese diaspora (see United Nations, 2004c, chap. IV). However, many examples of much smaller magnitude can be listed. Migrant groups as dissimilar as Malians, Mexicans and Filipinos have supported health clinics, built schools, repaired roads and invested in small business enterprises in their home communities. The associations often start with small resources, but they have the potential to grow to significant size. For example, in El Salvador the United Community of Chinameca first contributed $5,000 to build a school, and then $10,000 to build a septic tank. Later they constructed a Red Cross clinic at a cost of $43,000 and bought an ambulance worth $32,000 (Lowell and de la Garza, 2000, p. 2). Some State and local Governments match the resources from the associations in order to magnify their impact. There has been a recent trend towards encouraging diaspora groups to invest in small businesses and manufacturing activities in order to produce new jobs for villagers. These are truly grass-roots initiatives that involve community-to-community development.

79. Diasporas are a source of direct investment in home country businesses. In addition to providing their own financial resources, diasporas also form networks that link home country businesses with technology, finances, markets and other inputs. As described in one study, the involvement of diasporas is facilitated by "the development of intermediaries or networks that establish and incubate business relationships between diaspora entrepreneurs and their private and public sector counterparts in the home country, while facilitating the efficient flow of information" (Johnson and Sedaca, 2004, p. 44). For such networks to be effective, they must be broad-based. Involving women from diasporas in the networks may be essential to ensuring that female-headed businesses at home are included in the investment opportunities. However, when diaspora associations are patriarchal in organization, involving migrant women in the actual decisions over investments may be challenging.

80. An example of a collaboration between a government-financed programme in Mexico and a migrant hometown association (HTA) to stimulate economic opportunities for women occurred in the town of Tendeparaqua in the Huaniqueo municipality:

> "The HTAs and Government established a garment shop ... by investing in sewing machines to produce pants. The small workshop contains six different types of machines and will be managed by women from the locality. The State provided training to the women on elaboration of garments and also arranged a contract with the State textile chamber of commerce, which sells school

uniforms to the State. The women in the factory will make pants for school uniforms purchased by the chamber of commerce. The community will employ a minimum of eight women to run the shop in the first year" (Orozco, 2003, p. 38).

81. Diasporas have also been forces for democratization and better governance in their home countries. They can play an important role in informing and educating women in more patriarchal societies about the rights that women have in other societies. Women members of the Afghan and Iraqi diasporas have advocated for greater rights for women in the constitutions and new laws of their home countries. More generally, social remittances are the ideas, behaviours, identities and social capital that flow from destination to source country communities through international migration (Levitt, 1996). Levitt describes the process of change stimulated by members of the diaspora in a town in the Dominican Republic:

> "Due to their more active participation in public life in the United States, women modify their notions of what is right and appropriate, and they transmit these back to Miraflores. Non-migrant women use these social remittances to construct new versions of womanhood. While their ideas are somewhat romanticized, they still represent a significant shift in thinking about what it means to be a woman ... Non-migrants also have images of how émigré men and women share household chores. They hear that many men clean, cook and shop in the U.S. These notions challenge their understandings of the meaning of marriage and motherhood and about what men and women's roles and responsibilities should be" (Levitt, 1996, pp. 15-16).

82. This is not to say that the experience of the diaspora is always positive in stimulating opportunities for women or respect for their rights. Some returning migrants appear particularly reluctant to expose women and girls to other values if it means undermining cultural traditions, observing vehemently that they would never allow their wives or daughters to migrate with them to Europe or North America. In Mali, for example, many returning male migrants told researchers that they had come home at least in part because they saw that their female children were demanding too much autonomy (Martin, Martin and Weil, 2002). Moreover, male migrants who are particularly oriented to their home countries often lead diaspora associations. Their longing for their home countries may stem from a reluctance to accept new norms of behaviour (Jones-Correa, 1998).

3. Return of human capital

83. Migration of highly skilled individuals, including highly educated women, remains a problem as well as an opportunity for many countries. As a study for the International Labour Organization (ILO) found, "The percentage loss of tertiary skilled persons is far greater than that of secondary schooled persons, while the loss of primary schooled persons is very small ... Emigration selects those who can afford it, whose skills are in demand abroad and who stand to benefit most (the tertiary educated)" (Lowell and Findlay, 2001, p. 4). When the emigration of professionals reaches a critical mass — for example, 30 per cent of those with graduate degrees — the negative impacts on particular sectors, such as health care and education, can be massive.

84. Brain drain can have some positive impacts, however, and not just for the individual migrant. The prospect of employment in other countries can stimulate

interest in higher education. Since only some graduates leave, a country may benefit from an increase in educated persons even if emigration of skilled persons continues. For example, in the Philippines interest in nursing schools has grown among both women and men, stimulated by the heightened demand for their skills within South-East Asia in such places as Singapore as well as in Europe and North America. The phenomenon has an interesting gender aspect: "female work" is now attractive to men as well as to women because migration offers them a high return on their educational investment (United Nations, 2004). Whether the increase in nursing professionals will translate into better health care in the Philippines is a more difficult issue to assess. Nurses and other medical professionals who remain in the Philippines generally prefer to work in cities, still leaving a gap in the rural areas with the poorest access to health care.

85. Some women professionals who migrate return temporarily or permanently to their home countries, bringing new skills derived from their migration experience. Programmes that identify migrants with specific skills needed by their home countries and facilitate return and reintegration contribute to economic development, as does support for return migrants who plan to open small businesses upon reintegration. The skills may be needed for economic development, but they may also be required to help move the source country towards greater democratization and respect for human rights. For example, migrants who have legal training may be helpful in developing new judicial systems and establishing the rule of law.

86. Some experts question the extent to which countries actually benefit from this process. They point out that many migrants experience a devaluation of their skills upon migration and that they are not able to exercise their professions. Often, destination countries have licensing and certification standards that make it difficult for foreign professionals to practise. The migrants may, however, still earn considerably more abroad in lesser skilled occupations than they would if they returned to their home countries. Hence, both countries of origin and countries of destination experience a loss in the migration of these individuals.

87. Although migrants returning temporarily or permanently bring needed skills to their home countries, immigration policies make circulation of migrants very difficult. Often migrants lose their residence permits if they leave their destination countries for a considerable period of time. Bilateral and multilateral agreements permitting greater circulation could improve the situation (Weil, 2002).

88. Many countries hope to build on the human capital of their emigrants. The few programmes designed to facilitate such return are very small and appear to include few migrant women. The TOKTEN project (Transfer of Knowledge through Expatriate Nationals) aims to persuade migrants established abroad to return at least temporarily and contribute to their homeland's development. Operated by the United Nations Development Programme (UNDP), TOKTEN volunteers can work in a range of technical fields and specializations, such as agriculture, banking, business management, computer science, economics, environmental sciences, the food industry, geophysics, industrial hygiene and safety, marine science, manufacturing processes, medicine and public health, intellectual property law, remote sensing, telecommunications, urban studies and water management. While the assignments generally range from three weeks to three months, some of the expatriates return permanently to their homelands. According to information provided on UNDP web

sites, about 20 per cent of the Palestinian consultants TOKTEN deployed between 1995 and 1999 were women, and about 30 per cent of the TOKTEN volunteers in Lebanon have been women.

89. The International Organization for Migration offers similar opportunities for migrants to bring their skills home. For example, the Return of Qualified Afghans programme, which is co-funded by the European Union, offers comprehensive assistance packages to qualified and highly qualified Afghans now residing in the European Union who would like to return to their home country to work in the public and private sectors. The programme focuses on the development of critical sectors in Afghanistan, including private businesses that provide goods and services in the domestic market, civil and social services, public infrastructure and rural development. Migrant women are encouraged to participate in the programme and are eligible for additional financial support. The Migration for Development in Africa (MIDA) programme provides a wider range of activities through which migrants can contribute to the development of their home countries, including virtual return (using information technology to transfer skills), investment, short or sequenced visits and permanent relocation. There is little data, however, on the participation or specific contributions of migrant women in such programmes.

90. Limited data are available on the number of migrant women who return to their home countries through such programmes or on the effectiveness of the programmes in facilitating their reintegration. The area is in need of further research and evaluation.

IV. Family and labour migration

91. The vast majority of international migrants are considered to have moved voluntarily from one country to another. There are two major bases for such movements: family formation and/or reunification and labour migration. Both have different implications for men and women.

A. Family formation and reunification

92. Family formation and family reunification are major official reasons for international migration since many countries have migration policies favouring the admission of migrants in those categories. States often permit close family members of those already in the country to enter through legal channels, although the policy is more frequent in the traditional immigration countries than in those authorizing contract labourers only. In cases of family reunification, the anchor relative in the host country may have been married and had children at the time of arrival but left his or her family members behind. Having determined that she or he will remain in the host country, the relative petitions for family reunification. In the case of family formation, a citizen or international migrant already living in the host country marries a foreign national and seeks his or her admission.

93. Migrants officially designated as entering for family reunification are more likely to be women. Those figures are not surprising for two reasons. First, family reunification often follows male-dominated labour migration. In the years after guest worker programmes ended in Europe, most officially sanctioned international

migration consisted of family reunion as former guest workers brought their spouses and children to join them. Since the majority of guest workers were adult men, most family reunification-based immigrants were women and children. Second, gender norms may permeate seemingly neutral rules and regulations that govern admission, reducing the likelihood women will migrate as autonomous migrants.

94. The willingness of States to authorize family reunification is supported by international human rights law. Article 16 (3) of the Universal Declaration of Human Rights states clearly that "the family is the natural and fundamental group unit of society and is entitled to protection by the society and the State". Splitting families apart deprives each member of the fundamental right to respect of his or her family life.

95. Family reunion is a cause of further international migration. Many would-be labour migrants learn of employment prospects through their family members in other countries and then seek authorized or, in some cases, unauthorized entry to take the jobs. Moreover, once family members obtain residence status in a new country, they are often able to bring in additional relatives through family reunification programmes. This process is called chain migration. Although few countries permit legal immigration of extended family members, some migration systems do authorize admission of parents and adult siblings of already resident immigrants. In one scenario for example, an international migrant with long-term residence sponsors his or her new spouse for admission; they then sponsor each of their parents, who in turn sponsor their other children who enter with their spouses, who in turn sponsor their parents, and the chain continues.

96. Aside from its strong humanitarian basis and despite the potential for chain migration, host countries value family reunification because it helps immigrants adapt to their new society. Already resident family members assist new arrivals in finding jobs and housing and provide other needed assistance. New immigrants may add their earnings to augment household income. Parents of immigrants often take care of young grandchildren, thereby allowing both spouses to work and increase family earnings.

97. Families pool their savings to open businesses. At the same time, however, family migration may result in fiscal costs for the host society. Older parents may require health services or income support that immigrant families cannot afford. Immigrants often have more children than native-born residents, and the children may have special needs for language or other instruction, increasing costs for public education. Those costs may be an investment in the future, but they are also a current expenditure.

98. Eligibility for family reunification is not universal, however. Many contract labour arrangements preclude admission of family members, a situation that affects both women and children wishing to join their husbands or fathers abroad and men and children wishing to join their wives or mothers abroad. Admission rules often restrict family reunification for asylum-seekers and those granted temporary protection, even in traditional immigration countries. Often, applicants can apply for family reunification only after obtaining asylum.

99. In addition to being excluded from joining family members, women may also find their entry affected by rules and regulations that appear neutral in their formulation but are not so in their impact (Boyd, 1995). This can occur when

Governments impose financial restrictions on persons seeking to sponsor family members to ensure that they have sufficient income to support the new arrivals. Even where the policies are seemingly gender-neutral, they can have a disproportionately negative impact on women seeking to sponsor their families. For example, in Canada, when family income is below the low-income cut-offs, immigrants may be ineligible to sponsor the migration of family members. This ruling is gender blind. However, women's earnings are approximately 60 per cent those of men. Thus, women who are single or single parents may be less eligible to sponsor relatives (Boyd, 1989, p. 659).

100. Definitions of family vary for the purposes of immigration admission. In the United States, for example, parents and siblings of United States citizens are eligible as well as spouses and children of both citizens and legal permanent residents. The European Union directive on family reunification covers spouses and minor children, allowing member States to set policies individually on other family members. The directive permits States to restrict the admission of minor children over the age of twelve. The directive states: "The possibility of limiting the right to family reunification of children over the age of 12, whose primary residence is not with the sponsor, is intended to reflect the children's capacity for integration at early ages and shall ensure that they acquire the necessary education and language skills in school" (European Union, 2003, p. 13). Many States also restrict the admission of more than one spouse in a polygamous marriage. Those provisions may affect not only women but also children's admission. State policies vary with regard to the admissibility of non-married partners and spouses in same-sex unions.

101. Since gender roles underlie the propensities of women to move for purposes of marriage, women may be disproportionately affected by government suspicions of marriage fraud as a mechanism to gain legal entry. The European Union defines a "marriage of convenience" as follows:

> "Marriage concluded between a national of a member State or a third-country national legally resident in a member State and a third-country national with the sole aim of circumventing the rules on entry and residence of third-country nationals and obtaining for the third-country national a residence permit or authority to reside in a member State".[8]

102. Where there is well-founded reason to believe the marriage fits this definition, member States may be required to interview the spouses separately to validate the application for admission. To combat the potential for fraud in marriage cases, the United States offers conditional status to the immigrating spouse in recent marriages and reviews the case after two years to make sure that the marriage is valid before granting permanent status.

103. Arranged and forced marriages are also receiving scrutiny in a number of countries. Of particular concern are marriages between or with minors. The European Union has determined that "in order to ensure better integration and to prevent forced marriages, member States may require the sponsor and his/her spouse to be of a minimum age, and at maximum 21 years, before the spouse is able to join him/her" (European Union, 2003, article 4).

104. Migrating to marry or to rejoin family members can create real or perceived relations of dependency, which in turn make women vulnerable to abuse. Since their status is often linked to that of their spouses, migrant women who are victims of

domestic violence often feel they must stay with the abuser or face deportation. In her 2002 visit to Mexico, the United Nations Special Rapporteur on the human rights of migrants noted the vulnerability to domestic violence experienced by migrant women living in Mexico whose migration status was dependent on their husbands. In one account, the public prosecutor told a migrant woman living in Mexico and married to a Mexican national that her abusive partner was within his rights. After seven days in detention, she and her children were released into the custody of her husband (E/CN.4/2003/85/Add.2).

105. Women who find spouses through international matchmaking services also face potential risk upon migrating to join their husbands. Companies recruiting mail-order brides tend to be highly successful in countries with poor economies and few economic opportunities for women. The number of women who migrate as a result of such marriages is unknown. Estimates are generally based on surveys of the marriage brokers. A report commissioned by the United States Government estimates that between 4,000 and 6,000 spouses entered the country in 1998 as a result of such arranged marriages. The findings of the report included the following:

> "Based on a scanning of the services listed and information provided by the agencies themselves, we may estimate that between 100,000 and 150,000 women from a variety of countries (including Australia, Canada, Europe and the United States) annually advertise themselves as available for marriage. The great majority of these women are from two major areas: South-East Asia, including the Philippines, and Russia and other countries of the former Soviet Union" (Scholes, 1999, p. 2).

106. While many companies have a legitimate interest in matching spouses, some of the businesses use the lure of immigration as a pretext for trafficking the women into prostitution. The marriages may result in heightened abuse for a number of reasons. The service may operate in a very weak regulatory environment with no requirements for background checks of either spouse. The marriage broker will often have no information about previous history of abuse. Often, the spouses have different expectations about the marriage, which can lead to tension and potential violence (Thai, 2002). The men have a great deal of power over the women, particularly if the women do not have an independent basis to remain legally in the destination country. In other cases, the matchmaking services are fronts for international trafficking operations, recruiting women with promises of marriage but instead trafficking them into the sex trade.

107. A number of States have passed legislation that allows women to separate from their abusive husbands without risk of losing their immigration status. For example, in the United States, the Violence against Women Act provides battered spouses and children of citizens and legal immigrants the opportunity to petition on their own behalf for admission as permanent residents, without relying on the consent of the abuser. A recent reform of Organic Law No. 4/2000 on Rights and Freedoms of Foreigners in Spain and their Social Integration (the Aliens Act) enables women victims of gender violence reunited with their families in Spain to receive an independent residence permit after the issuance of a protection order.

B. Labour migration

108. Increasingly, women migrate by themselves to work abroad. Migration for study purposes is also common. Labour migration occurs in response to supply and demand factors: individuals may seek improved economic opportunities away from their home communities, and labour demand in receiving countries may provide work opportunities. Migrants may move through legal, registered channels, or they may move without authorization by government authorities. Migration can be temporary (individuals move for a short period and then return to their home communities), circular (individuals move back and forth between home and work communities) or permanent (individuals relocate themselves and possibly their families). However, migration is a dynamic process, so some individuals shift from one category of migrant to another. For example, workers may intend initially to remain only temporarily or to circulate but then become permanent residents of their new location.

109. Even if they are categorized administratively as family migrants, many women migrate for the same reasons as men, to improve their own economic situation and that of their families. In some sending countries, single women and previously married women are more likely than married women to migrate (Kanaiaupuni, 2000).

1. Types of employment

110. Several distinct categories of women migrate for work purposes, differentiated by their skills, the permanence of their residence in the host country and their legal status. At the lower end of the skills spectrum, migrant women pick fruits and vegetables, manufacture garments and other items, process meat and poultry, work as nursing home and hospital aides, clean restaurants and hotels and provide a myriad of other services. Domestic service is a common occupation for migrant women. Migrant women from a wide range of countries provide domestic services in receiving countries in almost all parts of the globe. They may migrate through official contract labour programmes that match workers and employers, or they may obtain such employment after migrating, often through informal networks.

111. At the higher end of the skill spectrum, migrant women engage in equally diverse activities. They fill jobs requiring specialized skills, run multinational corporations, teach in universities, supply research and development expertise to industry and academia and design, build and programme computers, to name only a few activities. Many migrant women work in the health sector, particularly as nurses and physical therapists. It should be kept in mind, however, that the proportion of female migrants in highly skilled categories is still much lower than the proportion of males, perhaps reflecting a continued unwillingness of families to invest in female education. Little is known about the experiences of highly skilled women in the labour force of their destination. For example, it remains to be ascertained whether they have any greater ease or difficulty than men in gaining recognition of their credentials.

112. In most countries, international migrants are admitted as temporary workers, and they are granted work authorization for specified periods. They have no right to remain in the destination country beyond the period of authorized employment. This is particularly true in the Gulf States and in East and South-East Asia. In some

cases, particularly in Europe, if a permit is renewed several times, the international migrant is allowed to remain indefinitely. The traditional immigration countries, Australia, Canada and the United States, also have mechanisms for direct admission of foreign workers for permanent settlement.

113. While many women migrate through legal work programmes, female unauthorized workers can be found in almost as diverse a range of jobs and industries as authorized workers, with agricultural and food processing jobs, light manufacturing and service jobs being the most common types of employment. Unauthorized migrant women are also smuggled into countries by professional traffickers, as explained below. While some migrant women know and accept the expectations of the traffickers, many others have been recruited to work in legitimate occupations and then find themselves trapped into forced prostitution, marriages, domestic work, sweatshops and other forms of exploitation.

114. Many migrant women work in the private sphere. They continue to perform what are considered culturally appropriate activities, such as child-rearing, elder care, cleaning and sewing. They may perform those activities in their own home (for example, piece-work sewing or, in recent years, computer programming) or in other people's homes (for example, childcare or elder care). Studies indicate that more than 200,000 foreign domestic workers are in Hong Kong and more than 155,000 in Malaysia (International Labour Organization, 2003). It is estimated that in France, over 50 per cent of migrant women are involved in domestic work (ibid.).

115. Others are employed outside of the home in family businesses within ethnic enclaves. They may not be paid a salary for such work, but they are nevertheless contributing to the economic viability of the family enterprise. Working in such situations has advantages, particularly for migrant women who do not speak the language of the host country. It also presents opportunities for abuse, however, since there is little if any regulation of the working conditions.

116. Changing gender roles in societies of destination have influenced immigration policies that affect the admission of migrant women for employment purposes. The growing participation of native-born women in the labour force has helped precipitate programmes for admission of foreign workers to undertake childcare, elder care, housekeeping and other services. For example, Canada and the United States have explicit programmes for admission of "au pairs" and "live-in caregivers" respectively, who provide such services. Lagging behind but also under consideration are programmes that give work permits to the spouses of executives, managers and professionals, in recognition that many of those highly sought migrants will not move if their spouses are unlikely to be able to carry on their own professions (Citizenship and Immigration Canada, 2003).

117. An area of considerable import for future policy-making is the demographic gap emerging between the wealthy countries with declining fertility and poorer countries with continued population growth. As the populations in the wealthier countries age, the demand for health services and caregivers will increase. Since women are disproportionately found in nursing and caregiver services, experts posit a likely increasing demand for female migrant labour in those traditionally female occupations.

118. How such demand will be met remains to be seen. Destination countries could implement new temporary work programmes, but keeping such programmes

temporary has proven to be difficult in the past. Since there is likely to be a long-term demand for those services and a declining population to provide them, countries could offer permanent residence to the health workers and caregivers. Destination countries could try to meet the demand for such workers via employment of women entering through family reunification channels. Unauthorized migration has been a consistent channel through which women have entered caregiver positions, and that mode of migration may continue and perhaps grow in the absence of other alternatives. If there is sufficient demand for a particular job and the pay increases accordingly, men might begin to train for these positions, as has been the case in the Philippines.

2. Working conditions

119. Although many migrant women experience good working conditions in their countries of destination, migrant women are at higher risk of discrimination, exploitation and abuse than male migrants or other female workers. They are doubly affected, both as women and as foreigners (International Labour Organization, 2003). They are outside their own countries, but they may not be entitled to the full range of protections afforded by the host country to its citizens.

120. An International Labour Organization tripartite meeting of experts on future ILO activities in the field of migration summarized the forms of exploitation that migrant women face as follows:

> "Exploitation exists where, for example, such treatment incurs very serious pecuniary or other consequences; migrants are specifically subjected to unacceptably harsh working and living conditions or are faced with dangers to their personal security or life; workers have transfers of earnings imposed on them without their voluntary consent; candidates for migration are enticed into employment under false pretences; workers suffer degrading treatment or women are abused or forced into prostitution; workers are made to sign employment contracts by go-betweens who know the contracts will generally not be honoured upon commencement of employment; migrants have their passports or other identity documents confiscated; workers are dismissed or blacklisted when they join or establish workers' organizations; they suffer deductions from wages without their voluntary consent which they can recuperate only if they return to their country of origin; migrants are summarily expelled as a means to deprive them of their rights arising out of past employment, stay or status" (see International Labour Organization, 1997, annex III, para. 1.2).

121. Migrant women are often uninformed about their rights and the obligations of their sponsors, regardless of whether they enter as family members or through labour channels. Programmes aimed at informing migrant women of their rights would help prepare them for migration. Better training for women in countries of origin that will enable them to qualify for higher paid positions in countries of destination would also help diminish their vulnerability to abuse. Access to training in the language of the host country is particularly important for the economic success of women and their ability to access jobs in the formal economy. In turn, employment in the formal economy is likely to help them avoid exploitation at the workplace.

122. For women who migrate to countries with vastly different cultural or legal norms relating to the role of women, adjustment can be a difficult process. Barriers to successful adjustment include those within the host society as well as individual or personal ones. Among the former are racial intolerance and sexual and cultural discrimination aimed at foreign women. Many migrants are of a different race from the majority of the population of their new country. As women, they may face the dual problems of racism and sexism in seeking employment, training or otherwise participating in the activities of the new country.

123. The migrant's legal status is an important factor influencing the ease with which she will be able to protect herself from exploitation. Immigrants admitted legally for permanent residence generally enjoy all the rights of other residents. Those who move within regions as temporary contract labourers often have rights that are more restrictive. They may be required to leave if they complain about wages or working conditions. Those who enter without authorization or documentation, who are ineligible for any legal status, are in a still more precarious state, unable to work legally or to access services.

124. Private recruiting agencies are often to blame for abuses of migrant women. Agencies recruit women into dangerous employment conditions and, at times, participate in the trafficking of women for prostitution by deceiving women into believing they are being recruited for some other type of work, often domestic work. In addition, many agencies overcharge for recruiting services, often double-charging employers and migrants (although the charging of migrants is often prohibited by law). Some States have passed laws regulating the agencies, including minimum requirements for employment conditions and regulations on recruitment expenses to migrants and employers. Some States, such as Pakistan, require the ministry of employment to do background checks on employers before recruiting agencies can send migrants to those positions. However, in many countries, the laws and regulations often go unenforced, and violators go unpunished.

125. In some countries, legislation allows migrant domestic workers to be transferred from one sponsor to another for payment. The practice often subjects women to different jobs and conditions than they had agreed upon when they migrated. Migrant women who work for employers who are immune from criminal penalties in the host country may find it impossible to seek remedies for abuses at the hands of those employers.

126. Migrant women without proper documentation, a common occurrence when employers take their workers' documents upon arrival, are often subject to penalties in host countries. In Thailand, regulations require migrant workers to carry their original documentation at all times. If they do not carry appropriate documentation, migrant women are subject to arrest and deportation. In other countries, migrant workers are unable to receive medical attention without the proper documentation. Some countries give migrant workers only single entry visas, making it impossible for women to return home for holidays.

127. Not surprisingly, given the types of migration discussed above, some migrant women are especially vulnerable to deprivation, hardship, discrimination and abuse. They face discrimination owing to their status as to migrants as well as to their status as women. They have limited access to employment and generally earn less than men and native-born women. Legally, many migrant women are vulnerable if their residence is dependent upon a relationship with a citizen or "primary migrant".

In many contexts, migrant women face real risks of physical and sexual abuse during travel and in the country of destination, and their rights are frequently violated, often with impunity.

C. Protecting the rights of migrant women

128. During the past decade, a number of international, regional and national laws dealing specifically with migration and with provisions applicable to migrant women have been adopted. International labour standards are also an important source of protection for migrant women. The Migration for Employment Convention (Revised), 1949 (No. 97), and its Recommendation No. 86 and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) and its accompanying Recommendation No. 151 contain the underlying principle of equality of treatment between nationals and regular migrant workers and include minimum standards of protection for all migrants, regardless of immigration status. Convention 143 also addresses irregular migration and calls for sanctions against traffickers. All migrant women and girls, regardless of their legal status, also benefit from the protection offered by the International Labour Organization Declaration on Fundamental Principles and Rights at Work (1998), which recognizes the universality of the rights to freedom of association and collective bargaining, freedom from forced labour and child labour and freedom from discrimination in employment. The recent International Labour Conference discussion on migrant workers[9] reiterated the importance of those instruments in the protection of the rights of migrant workers and promoted ratification of them together with other relevant ILO standards concerning private employment agencies, social security, protection of wages, labour inspection and occupational health and safety.

129. In 2003, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families entered into force. At the end of 2003, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, entered into force as well. The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, entered into force in January 2004.

130. To aid in the recognition and enforcement of international obligations for treatment of migrants, the Commission on Human Rights created the mandate of the Special Rapporteur on the human rights of migrants in 1999. The report to the General Assembly of the Special Rapporteur on the human rights of migrants (A/58/275) offered several observations and recommendations relevant to the protection of women migrants. The report focused on the problem of irregular migration, the problems with consular protection and the protection of migrants in informal labour sectors. It examined the link between smuggling and trafficking and recommended further study of their causes (ibid., para. 82). In addition, it recommended that States make greater efforts to combat corruption among immigration officials, to provide adequate documentation and to strengthen consular protections to nationals abroad (see A/58/275, para. 85). In her 2004 report to the Economic and Social Council (E/CN.4/2004/76), the Special Rapporteur focused specific attention on the situation of migrants in domestic service.

1. International human rights law

131. Migrant women should enjoy all of the rights applicable in international law. The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights set out the human rights and fundamental freedoms of all persons. They include the right to life, liberty and security; the right not to be held in slavery or servitude; the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment; the right not to be subjected to arbitrary arrest, detention or exile; the right to freedom of movement and residence within the borders of each State; the right to marry and to found a family; and the right to work, to free choice of employment and to just and favourable conditions of work. The rights are provided without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (article 2 of the Universal Declaration of Human Rights, article 2.2 of the International Covenant on Economic, Social and Cultural Rights and article 2.1 of the International Covenant on Civil and Political Rights). Furthermore, the Universal Declaration of Human Rights provides that every person has the right to leave and re-enter his or her own country of origin. Although the Universal Declaration of Human Rights does not establish a right to enter another country, it provides for a right to seek and enjoy asylum. In addition, the 1951 United Nations Convention relating to the Status of Refugees obligates States to refrain from refoulement of persons to territories where they have a well-founded fear of persecution, with certain security exceptions (see below for further consideration of refugee law).

132. Many of the provisions of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) are of particular importance to migrant women: the elimination of sex role stereotyping (article 5); suppression of traffic in women and of exploitation of prostitution of women (article 6); and provisions concerning education, employment and health (articles 10, 11 and 12). Article 14 is unique in that it addresses the particular situation of rural women, requiring States parties to eliminate discrimination against that particular group of women. Protection from such discrimination is important in helping to ensure that rural women need not migrate in search of their rights and employment opportunities. As of September 2004, there were 178 States parties to the Convention.

133. Implementation of the Convention is monitored at the international level by the Committee on the Elimination of Discrimination against Women, through the reporting process. In its constructive dialogue with States parties, the Committee also regularly examines the situation of migrant women and makes recommendations to the State party concerned on further steps needed to ensure that migrant women can enjoy their rights protected under the Convention. Among the areas that have received the Committee's particular attention are the often limited knowledge about the specific situation of migrant women in the country concerned and related shortcomings in policies, programmes and support services. It has considered the integration of migrant women in host countries and has voiced concern about migrant women's lack of, or limited access to, education, training, work and work-related benefits, health care and social protection, as well as to remedies to discriminatory or exploitative terms of work, pay and benefits. It has highlighted specific constraints that migrant women face in combating violence owing to their status as migrants, such as sexual abuse and harassment by

employers, and types of violence perpetrated in the family. It has also highlighted provisions in civil and personal status laws that are especially discriminatory towards migrant women. In addition, the Committee pays particular attention to trafficking in women.

134. With the entry into force of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women in December 2000, implementation of the Convention has been significantly strengthened. The Optional Protocol contains two procedures. A procedure for communications allows individual women or groups of women to submit to the Committee claims of violations of rights protected under the Convention, once certain admissibility criteria have been fulfilled. In particular, the State against which a complaint is brought must be a party to the Convention and the Optional Protocol, and all domestic remedies must have been exhausted. The Optional Protocol also creates an inquiry procedure enabling the Committee to initiate inquiries into situations of grave or systematic violations of women's rights. As of September 2004, there were 66 States parties to the Optional Protocol.

135. The International Convention on the Elimination of All Forms of Racial Discrimination is a further instrument for protecting the rights of migrant women, since many migrant women experience racial as well as gender-based discrimination. The Convention on the Rights of the Child includes several articles useful in protecting migrant children (for example, article 11 aims to prevent the illicit transfer of children abroad, and article 35 calls for measures to prevent the abduction of, sale of or traffic in children for any purpose or in any form).

136. In addition to the United Nations conventions, many countries have ratified conventions sponsored by the International Labour Organization for the protection of the rights of migrants. Forty-two countries have ratified the Migration for Employment Convention (Revised), 1949 (No. 97), which obligates States to provide free and accurate information to migrants (article 2); to prevent misleading propaganda (article 3); to facilitate the departure, journey and reception of migrants (article 4); to prevent discrimination against migrants (article 6); and to permit remittances (article 9). Eighteen countries have ratified the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143). International Labour Organization Convention No. 143 requires States to respect the human rights of migrants (article 1), to investigate, monitor and suppress trafficking (articles 2, 3, and 6) and to provide equality of opportunity and treatment in the areas of employment, social security, unions, and cultural rights (article 10).

137. Other relevant International Labour Organization conventions are the Forced Labour Convention, 1930 (No. 29), the Abolition of Forced Labour Convention, 1957 (No. 105), the Equal Remuneration Convention, 1951 (No. 100), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

2. The International Convention on the Rights of All Migrant Workers

138. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families builds on the ILO Migration for Employment Convention (Revised), 1949 (No. 97) and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143). It reaffirms basic human rights norms and embodies them in an instrument applicable to migrant workers and their families. The underlying goal of the Convention is to guarantee minimum

rights for migrant workers and members of their families who are in legal or in undocumented or irregular situations. Its implementation could significantly improve the status of all migrant workers. As at June 2004, 27 States had ratified the Convention. No destination country of migrants has yet acceded to the Convention.

139. The Convention defines the rights of migrant workers under two main headings: "Human rights of all migrant workers and members of their families" (part III), which reaffirms the human rights of all migrants regardless of their legal status, and "Other rights of migrant workers and members of their families who are documented or in a regular situation" (part IV), which sets out additional rights applicable only to migrant workers in a regular situation. Documented migrants are defined as those "authorized to enter, to stay and to engage in a remunerated activity in the State of employment pursuant to the law of that State and to international agreements to which that State is a party" (article 5). Rights are provided without distinction as to sex or marital status. Migrant women are protected from discrimination in the application of the Convention (article 1 and article 2.1).

140. A number of provisions focus on the right of migrants, regardless of documented status, to protection from violence and attacks. Article 10 prohibits torture or cruel, inhuman or degrading treatment or punishment. Article 11 prohibits slavery or servitude and forced or compulsory labour. Article 14 prohibits arbitrary or unlawful interference with privacy or attacks on honour and reputation. Article 16 entitles migrants "to effective protection by the State against violence, physical injury, threats and intimidation, whether by public officials or by private individuals, groups or institutions".

141. A number of other articles focus on the social and economic status of migrants. Article 64 (2) states that "due regard shall be paid not only to labour needs and resources, but also to the social, economic, cultural and other needs of migrant workers and members of their families involved, as well as to the consequences of such migration for the communities concerned". Article 70 guarantees working conditions in keeping with the standards of fitness, safety, health and principles of human dignity of the native population. Article 43 provides documented migrants with equal treatment with nationals in respect of access to education, vocational training, housing and health services. Article 45 confers the same rights for members of families. Article 50 provides that in case of death or dissolution of marriage, the State shall favourably consider granting authorization to stay to the families of documented migrants.

142. The Convention establishes a Committee on the Protection of Rights of All Migrant Workers and Members of Their Families, which consists initially of 10 experts, to be expanded to 14 after 41 ratifications, who should be of "high moral standing, impartiality and recognized competence in the field covered by the convention". Committee members are elected from a list of nominees. States parties (only those who have ratified the Convention) may nominate one person from among their own nationals. Elections are by secret ballot. The Convention reflects an intention that there be equitable geographical distribution for both source States and destination States.

143. States ratifying the Convention "undertake to submit" to the Secretary-General of the United Nations for consideration by the Committee a report on the legislative, judicial, administrative and other measures to give effect to the Convention within one year after entry into force and every five years thereafter. The Committee will

examine the reports and will transmit comments to the State. The Committee may invite the specialized agencies and organs of the United Nations as well as intergovernmental organizations and "other concerned bodies" to submit written information on matters that fall within the Convention's scope for the Committee's consideration.

144. The Convention provides for a communications procedure by individuals and groups of individuals (article 77), once certain admissibility criteria have been fulfilled, including exhaustion of domestic remedies. The procedure is only applicable to those States parties that expressly recognize the competence of the Committee to receive and consider such communications. The Convention also provides for an inter-State procedure (article 76).

145. Although the rights provided by the Convention apply to both men and women migrants and article 45 specifically addresses the equality of rights, the Convention fails to address explicitly many needs that are particular to women. One commentator stated the following:

> "It fails to expressly protect migrant women's particular vulnerability as victims of prostitution and of sexual as well as other forms of physical abuse. Nor does [the Convention] recognize that women's and men's work may not be the same and that women, as migrant workers, are more likely to experience occupation segregation by finding themselves in employment, such as light manufacturing and 'home' or 'domestic' work, where there are generally no organized trade unions and no records to measure entitlements to social benefits" (Cholewinski, 1997, pp. 185-186).

146. Since native-born women tend to find work in non-regulated sectors, guaranteeing equal treatment with nationals will not help migrant workers in such situations (Cholewinski, 1997; Hune, 1991). The Convention also fails to address explicitly the need of migrant women for childcare services.

3. Regional conventions and consultative mechanisms

147. Regional conventions offer limited rights to migrant workers. The European Convention on the Legal Status of Migrant Workers (1977), focuses primarily on migrants in legal work situations. A few States in Europe have ratified it. The European Convention on Human Rights (1950) and the European Social Charter (1965) are broader instruments. The 1950 Convention, focusing on political and civil rights, affords the same absolute (non-derogable) rights to foreign nationals as to European nationals, including the right to life and to freedom from torture. The Charter covers social, economic and cultural rights. For example, it provides for equal access to social housing for foreigners; accessible, effective health-care facilities for the entire population; prohibition of forced labour; the right to social security, social welfare and social services; a limited right to family reunion; procedural safeguards in the event of expulsion; and the right of women and men to equal treatment and equal opportunities in employment. The Charter guarantees to all nationals and foreigners legally resident and/or working that all the rights set out therein apply regardless of race, sex, age, colour, language, religion, opinions, national origin, social background, state of health or association with a national minority.

148. In Asia, the 1999 Bangkok Declaration on Irregular Migration and the Manila Process were established to investigate, monitor and suppress trafficking and irregular migration. The Bangkok Declaration seeks to address the causes of irregular migration, to improve communication about migration and to grant humanitarian treatment to irregular migrants. The Bangkok Declaration (article 18) calls on the private sector and civil society specifically to "join in a collective regional effort to alleviate the adverse effects of irregular migration and to prevent and combat trafficking of human beings, especially women and children".

149. In the Americas, the Inter-American Commission on Human Rights monitors the status of the human rights of migrants through its own Special Rapporteur on Migrant Workers and Their Families. The Inter-American Commission on Human Rights and the Inter-American Court on Human Rights were established pursuant to the American Convention on Human Rights (1969). The American Convention on Human Rights provides a right to humane treatment (article 5), a right to seek and be granted asylum (article 22 (7)), a right to equal protection (article 24) and a right to judicial protection (article 25). The rights provided by the American Declaration of the Rights and Duties of Man (1948) that are relevant to the needs of migrant women are the right to the protection of women during pregnancy (article 7) and the right to work and fair pay (article 14).

150. The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará) (1994) contains provisions that give women the right to the recognition, enjoyment, exercise and protection of all human rights and freedoms contained in regional and international human rights instruments (article 4); the right to the free and full exercise of civil, political, economic, social and cultural rights (article 5); and the right to be free from discrimination and stereotypes (see article 6). The Regional Conference on Migration (also known as the Puebla Process) is another mechanism by which States in the region seek to protect and monitor migrants.

151. In Africa, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003) calls for the elimination of discrimination (article 2) and harmful practices against women (article 5). The Protocol also grants women a series of economic and social rights (article 13) relevant to women who migrate for economic reasons, including the right to equal employment opportunities, to equal pay and to equal benefits. In 1996, the Southern African Development Community submitted the Draft Protocol on the Free Movement of Persons in the Southern African Development Community (SADC) to its member countries. The draft protocol established short-term and long-term objectives to facilitate the movement of people in the region across borders. However, to date, the draft protocol has not been ratified. In November 2000, the Migration Dialogue for Southern Africa was formally constituted to facilitate regional dialogue and cooperation on migration policy in the Community.

152. In the Arab countries, the Cairo Declaration on Human Rights in Islam (1990) establishes the right of all individuals to be free from discrimination and the Agreement on mobility of labour among the members of the Council of Arab Economic Unity (1965) provides for freedom of movement, employment and residence and eliminates particular restrictions on movement.

4. Ensuring protection at the national level

153. For most migrant women, national laws and procedures remain the principal support or barrier to the exercise of rights. Many national laws on emigration and immigration of voluntary migrants include discriminatory provisions that affect the protection of migrant women. Examples of discriminatory laws include provisions that bar or make it harder for women migrants to bring their husbands and children to join them or require pregnancy tests for women migrants; bars on emigration of women without their guardian's permission; age limits on immigration or emigration that apply only to women and girls; and possible requirements to submit to pregnancy tests on a regular basis or risk deportation if they become pregnant.

154. Other legal provisions have a disproportionately negative impact on women, even though they appear neutral, because women tend to migrate more frequently in certain categories. For example, labour codes often exclude domestic workers and, less frequently, agricultural workers. In addition, many countries provide residence permits but do not grant employment authorization to the spouses of temporary workers. If most migrant workers are men, as is the case in many countries, such employment restrictions fall most heavily on migrant women.

155. Laws adopted ostensibly to protect women may have counter-productive results, limiting their mobility and access to employment. For example, States may place restrictions on women who seek employment as domestic workers after incidents of abuse against such workers surface. Not only do such bans deprive women of needed income, they often encourage women to leave clandestinely and put them at even greater danger of abuse.

156. More targeted policies can help avoid such outcomes. Both the Philippines and Sri Lanka require that all contracts for workers leaving the country for employment be approved by the State, verifying that the conditions of work and the contract are sufficient to protect the migrant and monitor working conditions through the deployment of labour attachés. The ministry of labour in other countries certifies contracts offered to national workers for employment abroad.[19] As a receiver of migrants, Hong Kong SAR protects legal migrants working as domestic workers with a standard employment contract, minimum wage laws and protection under the employment ordinance. The ordinance grants ..ghts to unionize, to demonstrate, to undertake religious/cultural activities and to take maternity leave. Furthermore, "Governments such as that of the Philippines have negotiated and signed bilateral agreements or memoranda of understanding with countries of destination, and have established mechanisms and programmes to ensure that migrant domestic workers migrate in proper conditions and are aware of their rights and of complaint and protection mechanisms" (E/CN.4/2004/76, para. 40).

157. Consular protection can play an important role in ensuring that migrant women do not face abusive situations. Consular officers can monitor the security of migrant women in potentially vulnerable positions, using their diplomatic positions to engage the host country in interceding in favour of the migrant woman. Often, however, there are too few consular offices and officials to be able to carry out those activities. Valuable lessons can be learned from successful models that could be applied elsewhere.

158. In destination countries, a range of activities will help migrant women better protect their rights, such as "know your rights" training programmes for women

who migrate. The more informed women are prior to migrating, the better they are able to assert their rights. This is particularly the case for contract labourers, who may have little idea of the wages or working conditions to which they are entitled. Similarly, women migrating to join family members need to know and understand their rights, both in relation to their husbands or children (particularly regarding domestic violence) and in relation to their immigration status. Access to language training courses in destination countries will also help migrant women to learn of and assert their rights when employers or their family members violate those rights. Often, highly restrictive and detrimental contracts signed by migrant women are in a language they do not understand (E/CN.4/2004/76).

159. Monitoring recruitment agencies and employers is essential to the protection of migrant women. This is particularly the case when migrant women are working in domestic service or other activities that keep them out of public view. The Special Rapporteur on the human rights of migrants cited a number of such approaches for monitoring:

> "Some countries of origin and of destination have taken steps to prevent illegal recruitment and abuses by recruitment agencies. Some countries, such as Pakistan, have a system for monitoring the work of recruitment agencies, which can only recruit subject to the authorization of the Ministry of Employment after an embassy check on the employer's credibility. Employers who have been reported for not abiding by contracts or for committing abuses are put on a list, and are prohibited from recruiting people from the country again." (ibid., para. 50)

160. The Government of Singapore provides a telephone number that migrant domestic workers can call free of charge to obtain information on their rights and on the procedure for changing employers (E/CN.4/2004/76). In Costa Rica, the Ministry of Labour carries out inspections and can receive complaints from female migrant domestic workers, and the National Institute for Women (INAMU) has set up training programmes for female migrant domestic workers, and working in the country (ibid., para. 64, note 24). Training for government officials, employers and others as to the rights of migrant women and their obligations under international and national law will also help curb abuses.

161. When abuses occur, legal representation for migrant women can help them fight against discrimination, sexual harassment, lost wages and other violations of their labour rights. Consular protection can extend to covering the costs of such representation. Embassies of the Philippines, for example, will pay legal costs if a case alleging abuse goes to court. Destination countries also provide legal aid and pay costs of representation. In Bahrain, for example, if a contract dispute involving a domestic worker cannot be resolved and goes to court, the court will appoint a lawyer for the migrant worker (E/CN.4/2004/76). At times, public interest or class action lawsuits may help ensure that an entire class of migrant women obtain their rights. Non-governmental organizations and trade unions play important roles in providing legal support in such cases. Associations of migrant women can be useful rallying points for identifying problems and seeking legal redress.

162. Finally, programmes that provide shelter and social services to migrant women who have experienced abuse are essential to protecting their rights. Migrant women who decide to return home after escaping abusive conditions may also need assistance in repatriation and reintegration. Non-governmental organizations,

religious institutions and trade unions provide such assistance in a number of countries. Consulates and embassies also provide social and financial support in these situations (ibid.).

V. Refugees and displaced persons

163. While a majority of female migrants move voluntarily for family or work purposes, a smaller number have been forced to leave their homes as a result of conflict, repression, human rights violations, political instability and similar factors. Some are displaced internationally whereas others are forced to relocate within their own countries.

164. The total population of concern to the United Nations High Commissioner for Refugees (UNHCR) fell from 20.8 million persons at the end of 2002 to 17.1 million by the end of 2003. Of that population, refugees constituted 57 per cent, up from 51 per cent in 2002 (UNHCR, 2004). Of those for whom demographic data were available, 49 per cent were female and 46 per cent were children under the age of 18 (ibid.). The share of women and girls among refugees varies considerably by country of origin and country of asylum.[11] In Angola, Guinea, Pakistan and Rwanda, for example, more than 56 per cent of the adult refugees 18-59 years of age are women. By contrast, a study done for UNHCR shows that the proportion of females among asylum applicants in Europe varies from 16 per cent to 46 per cent. On average, women submit 29 per cent of the asylum applications in Europe. However, it is important not to equate that number with the total number of female asylum-seekers and refugees, since that figure reflects only the asylum claims launched by women. Usually women do not apply separately for asylum; instead, the application is made by their spouse or accompanying male relative.

A. Legal protection of refugee and displaced women

165. Refugees have a special status in international law. The 1951 Convention relating to the Status of Refugees defines a refugee as a person who, "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country". Refugee status has been applied more broadly, however, to include other persons who are outside their country of origin as a result of armed conflict, generalized violence, foreign aggression or other circumstances that have seriously disturbed public order and who therefore require international protection.

166. The basic structures and legal instruments to ensure the legal protection of refugees were established over 50 years ago. The Convention relating to the Status of Refugees was adopted in July 1951. The essential purpose of the Convention was to provide a general definition of who was to be considered a refugee and to define his or her legal status. The 1951 Convention was produced largely to resolve the situation of the millions of refugees who remained displaced by the Second World War. At its core, the treaty substitutes the protection of the international community (in the form of a host government) for that of an unable or unwilling sovereign. The 1951 Convention included geographic (Europe) and time (persons displaced before

1951) limitations that were lifted in the 1967 Protocol. Since 1967, the Convention has been a universal instrument, applying to refugees worldwide.

167. According to the Convention, States must refrain from refoulement of refugees to countries in which they would face persecution. States do not have the obligation to provide asylum or admit refugees for permanent settlement, and they may relocate refugees in safe third countries that are willing to accept them. The Convention has been interpreted to require States to determine the status of asylum applicants at their frontiers or inside their territories in order to determine if they have valid claims to refugee protection. While the only obligation to a refugee is non-refoulement, in practice this has often meant admission to and asylum in the host country.

168. To gain recognition as a refugee, asylum applicants must demonstrate first that the level of harm they have experienced rises to persecution; second, that their own Government cannot or will not protect them from the harm; and third, that the persecution is based on one of the protected grounds included in the definition.

169. In 2002, UNHCR issued two guidelines on international protection to assist States parties and national refugee status determination (RSD) authorities in gender-sensitive assessment and in the processing of asylum claims. The guidelines on gender-related persecution and the guidelines on membership of a particular social group, both within the context of article 1 A (2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees, complement other UNHCR guidance on aspects of gender-related persecution, provide legal interpretive guidance on ensuring gender-sensitive interpretation of the Convention and ensure that refugee status determination procedures do not marginalize or exclude gender-related experiences of persecution.

170. In its 2002 guidelines on gender-related persecution, UNHCR stated the following:

> "Even though gender is not specifically referenced in the refugee definition, it is widely accepted that it can influence, or dictate, the type of persecution or harm suffered and the reasons for this treatment. The refugee definition, properly interpreted, therefore covers gender-related claims. As such, there is no need to add an additional ground to the 1951 Convention definition" (United Nations High Commissioner for Refugees, 2002b, para. 6).

171. A number of Governments[12] have issued guidelines or regulations to guide asylum determinations in the area of gender. Some forms of persecution are in themselves gender-specific. The United Kingdom guidelines state that "gender-specific harm may include *but is not limited to* sexual violence and abuse, female genital mutilation, marriage-related harm, violence within the family, forced sterilization and forced abortion" (United Kingdom, Immigration Appellate Authority, 2000, para. 2A.17). The guidelines generally make a distinction as to the perpetrator of the persecution in determining whether the applicant is justified in being unable or unwilling to accept the protection of her home country. If the persecution is carried out by government authorities, State actors, "it follows that there is a failure of State protection" (ibid., para. 2B.1). In many gender-persecution cases, however, the harm is carried out by non-State actors, family members or armed elements. When non-State actors are recognized, as they are in many

countries, the asylum applicant must demonstrate a failure of the State to provide protection from the non-State actor.

172. The most difficult issue to establish in gender-based cases is the link between the harm suffered and the relevant protected grounds. Such cases often try to tie the persecution to the applicant's "membership in a particular social group". The UNHCR guidelines define social group as "a group of persons who share a common characteristic other than their risk of being persecuted, or who are perceived as a group by society. The characteristic will often be one which is innate, unchangeable, or which is otherwise fundamental to identity, conscience or the exercise of one's human rights" (United Nations High Commissioner for Refugees, 2002b, para. 11).

173. Women may face special problems in making their case to the authorities, particularly when they have had experiences that are difficult and painful to describe. The female victim of sexual torture may be reluctant to speak about it, particularly to a male interviewer. Rape, even in the context of torture, is seen in some cultures as a failure on the part of the woman to preserve her virginity or marital dignity (National Center for Post-Traumatic Stress Disorder, n.d.). She may be shunned by her family and isolated from other members of the community. Discussing her experience becomes a further source of alienation.

174. The very delicate and personal issues arising from sexual abuse require the physical presence of officials who are trained and sensitive to the needs of refugee women. In most instances such interviews require female staff members who can communicate with victims about their personal experiences. Women are too often underrepresented in international bodies working with refugees as well as in many government bureaucracies that conduct interviews for determining refugee status.

175. Sometimes, women who arrive as part of a family unit are not interviewed or are cursorily interviewed about their experiences, even when it is they rather than their husbands who have been the targets of the persecution. The various guidelines developed for asylum adjudicators take note of these problems, generally recommending a non-confrontational environment for hearing women's claims, with female adjudicators and interpreters. If the presence of family members will make it unlikely that the applicant can tell her story in full, she should be interviewed on her own. Interviewers should have gender-sensitive training and be familiar with the conditions for women in the country of origin, as well as with the experiences that women may have undergone in leaving their countries and seeking asylum.

176. Progress in establishing gender-sensitive asylum procedures has been slow. According to a study of European asylum practices, the evidence indicates limited progress in ensuring gender-sensitive interpretation of the 1951 Convention and gender-sensitive asylum procedures. Where progress has been made, implementation of the key recognitions is inconsistent. For example, less than half of the 41 countries surveyed have explicitly recognized sexual violence as a form of persecution. In the surveyed countries, individual decisions show that the application of this interpretation of persecution under the 1951 Convention is inconsistent (see Crawley and Lester, 2004, para. 654). The study also found a general lack of gender-differentiated statistics on asylum applications and decisions and a lack of guidance and training on assessing gender-related asylum claims, with only 40 per cent of the countries providing automatic and consistent access to procedures to all adults, including women who arrive with their husband or other male relative.

177. Lack of access to family reunification is a further legal barrier for refugees and asylum-seekers. Refugees often find themselves separated from their families, especially during conflict. Many States provide very limited opportunities for asylum-seekers, particularly those granted temporary protection, to reunify legally with separated family members.

B. Physical safety and security

178. The protection of refugee and displaced women in conflict situations is particularly problematic. Civilians are increasingly the targets of attacks in conflicts. Articles 7 and 8 of the Rome Statute of the International Criminal Court include rape and sexual violence among the crimes against humanity and war crimes. Rape and sexual assault also occur during flight, at the hands of border guards, government and rebel military units, bandits and others. Women's safety may be no more ensured once in refugee and displaced persons camps or reception centres. For example, refugee and displaced women have faced serious threat of rape when they collect firewood, often the only source of heating and cooking fuel. Refugee women have been forced to provide sexual favours in exchange for obtaining food rations for themselves and their families. In some cases, only male heads of households receive documentation of their status, leaving their spouses vulnerable to harassment each time they leave their homes.

179. Events have demonstrated that more specific and more strictly enforced codes of conduct are needed to prevent abuse of women and children by international humanitarian workers. The Inter-Agency Standing Committee Task Force on Protection from Sexual Exploitation and Abuse in Humanitarian Crises was established in March 2002 and mandated to make recommendations aimed at eliminating sexual abuse and exploitation. The overall objective of the Task Force was to strengthen and enhance the protection and care of children and women in situations of humanitarian crisis and conflict. In addition to specific preventative and remedial measures, the report of the Task Force and Plan of Action (A/57/465, annex I) established six core principles to be incorporated into the codes of conduct and staff rules and regulations of member organizations. The core principles represent the agreed principles and standards of behaviour that humanitarian agencies, including United Nations organizations and agencies as well as non-governmental organizations, expect of their staff. In October 2003 the Secretary-General promulgated a bulletin on special measures for protection from sexual exploitation and sexual abuse (ST/SGB/2003/13) explicitly stating that the core principles adopted by the Task Force governing behaviour of humanitarian workers were now applicable to all United Nations civilian international and national staff and, through partner agreements, to all organizations or individuals entering into cooperative arrangements with the United Nations. The bulletin addressed the issue of exploitation and clarified responsibilities, standards of conduct and actions to be taken upon a breach of conduct by staff.[13]

180. The Inter-Agency Standing Committee recognized that the problem of sexual exploitation and abuse in humanitarian crises was embedded in unequal power relationships. The lack of economic opportunities for displaced populations and the loss of social protection exacerbated the potential for abuse. Responses were thus required from many different actors to achieve a shift in the organizational culture and approach of humanitarian agencies.[14]

181. Many other factors contribute to the vulnerability of refugee and displaced women and girls to sexual violence and exploitation. In many camps, the physical facilities increase the likelihood of protection problems. Camps are often overcrowded. Unrelated families may be required to share a communal living space. A United Nations team investigating allegations of sexual abuse in West Africa found that bathing facilities in a number of the camps consisted of one building with one side for men and another side for women. The isolation and lack of separate and distinctly placed facilities, which would increase the cost, had caused the facilities occasionally to be the site of sexual violence (see A/57/465, para. 26). When refugee and displaced women do not have documentation of their status, they are particularly vulnerable to abuse.

182. Security in the camps is generally inadequate as well. International humanitarian aid staff are often absent, leaving operations to local national and refugee staff. Night patrols to ensure greater protection may be absent or infrequent. Although the responsibility for security generally rests with Governments, government authorities, particularly in poorer countries, may not have sufficient resources to fulfil the responsibility. The refugees and displaced persons themselves may take on the responsibility for patrolling the camps, but their capacities are limited as well. Staff in refugee reception facilities may not be sensitized or equipped to combat sexual and gender-based violence. Asylum-seekers and refugees are also known to fall prey to traffickers and smugglers who promise them better protection, living conditions and economic opportunities.

183. Traditional mechanisms for protection may be lost when refugees must live in camps or reception centres. In particular, the communal support systems for protection of widows, single women and unaccompanied minors may no longer exist. Heightened levels of domestic violence are frequent where refugees have lived for extended periods in the artificial environment of a refugee camp or reception facility, or while waiting for the decision on their asylum application. Psychological strains for husbands and adolescent boys unable to assume normal cultural, social and economic roles can result in aggressive behaviour towards wives, children and sisters.

184. Camps for refugees and displaced persons in a number of locations house the civilian families of members of armed forces. Proliferation of weapons in such camps can compound the protection problems facing refugee women. However, some efforts to separate combatants from civilians have been successful.

185. Forced recruitment of women and children into the armed forces of resistance groups is a further problem in some countries. Women and girls are forced into sexual slavery by armed forces, recruited as soldiers or required to carry ammunition and other supplies and clear mines. Abduction of children remains a major problem, with girls often experiencing sexual abuse, as reported in the fourth Secretary-General's report on children in armed conflict:

> "Abducted children are subjected to brutal treatment and other egregious personal violations. In northern Uganda, [the] Lord's Resistance Army (LRA) has abducted thousands of children and forced them to become child soldiers and to commit atrocities. The case of the girls abducted in 1996 from Aboke secondary school has particularly brought the situation of abductions in northern Uganda to the attention of the international community. In Colombia, the Ejercito de Liberación Nacional (ELN) and the Fuerzas Armadas

Revolucionarias de Colombia (FARC) have kidnapped hundreds of children for ransom and as a means of terrorizing civilian populations; 215 children were kidnapped in 2002 and another 112 during the first half of 2003. In early 2003, the Communist Party of Nepal (CPN-Maoist) conducted large-scale abductions, mostly of schoolchildren. While many of the children were returned within days, others still remain unaccounted for, and some of the girls released have reported sexual abuse" (A/58/546-S/2003/1053, para. 34).

186. A final significant impediment to the protection of refugee and displaced women and children is the general insecurity that places humanitarian operations at risk, particularly when the displaced are still within their own countries or they remain under the control of military forces in a country of refuge. Insecure conditions impede access to displaced populations for delivery of aid, create protection problems for aid workers as well as their clients and make it impossible to monitor and evaluate the effectiveness of aid operations.

187. Such problems do not necessarily stop when the women return home. The conflict may still continue, and even if a peace agreement has been signed, political instability, the continued presence of landmines and the destruction of the economy and infrastructure make conditions dangerous for returning women and their families. UNHCR emphasizes that voluntary return must be carried out in safety and dignity. The *Handbook on Voluntary Repatriation: International Protection* (United Nations High Commissioner for Refugees, 1996, section 2.4) states that "among the elements of 'safety and dignity' to be considered are the refugees' physical safety at all stages during and after their return, including en route, at reception points and at the destination; the need for family unity; attention to the needs of vulnerable groups; the waiver or, if not possible, reduction to a minimum of border crossing formalities; permission for refugees to bring their movable possessions when returning; respect for school and planting seasons in the timing of such movements; and freedom of movement". Recognizing that the protection of refugee women and children may require special arrangements, the *Handbook* includes a special box reminding repatriation planners to "make appropriate arrangements for the physical safety of unaccompanied women and women heads of household in departure, transit or reception centres (such as separate areas close to the relevant infrastructure with adequate security arrangements, lighting)" (ibid.).

C. Access to assistance and self-support opportunities

188. Many of the world's refugees and internally displaced persons are dependent on international assistance for all of their material needs, including food, shelter, water and health care. Refugees and displaced persons fleeing their homes usually cannot bring material resources with them. They may arrive in poor health, malnourished and/or disabled, having experienced famine in their countries of origin and long treks through hazardous terrain.

189. Large numbers of refugees and displaced persons continue to be dependent on international assistance long after their original flight. In many host countries, refugees remain in care and maintenance camps for years, unable to return to home communities owing to continued conflict and instability, without opportunities to work or access training or income-producing activities. The refugees must rely on food rations, clothing and shelter as provided by international donors. The

assistance package is often inadequate to meet even the basic nutritional needs of the population. Economic dependency, isolation and lack of integration support may put asylum-seekers, especially single women, women with children and unaccompanied minors, at a further risk of sexual and gender-based violence, including sexual exploitation and forced prostitution. Overall, refugee women are not adequately consulted about the programmes in place, and they do not participate actively in the implementation of projects ostensibly designed to assist them.

190. The Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2), which were developed at the initiative of the Secretary-General's Representative on Internally Displaced Persons, provide specific guidance with regard to internally displaced women. The Guiding Principles, although not a legally binding instrument, are based on binding international human rights, humanitarian and analogous refugee law. They contain provisions regarding internally displaced women's participation in the planning and distribution of humanitarian assistance (principle 18), women's health (principle 19), identification documents (principle 20), and education (principle 23).

191. A principal contributor to heightened mortality in humanitarian emergencies is malnutrition. Equal access to food and non-food items is a key issue for refugee and displaced women and children. International organizations and host countries, often in consultation with the refugee leaders of the camps, generally make decisions about food distribution. Refugee leadership structures, particularly at the height of emergencies, often exclude women. Male leaders may, however, have little understanding of the needs and circumstances of the women who cook the food or feed their families. As a result, food distribution procedures and contents may be inappropriate. Aid agencies may provide food that is inconsistent with the dietary traditions of the refugees and displaced persons. Alternatively, the food may require preparation that cannot be readily accomplished in the camp setting. Those problems are further compounded by cultural practices within some refugee and displaced populations that require that men be fed first. Where supplies are limited, women and children may not receive adequate food.

192. During the past decade, there has been increased recognition that women must be involved at an early stage in the process in the design of food distribution systems as well as in the actual delivery of the food. The *Guidelines on the Protection of Refugee Women* recommend that UNHCR staff "consult with refugee women regarding all decisions about food and other distribution [and] designate refugee women as the initial point of contact for emergency and longer-term food distribution" (see UNHCR, 1991, para. 86). World Food Programme (WFP) policies say that women should control the family food aid entitlement in 80 per cent of WFP food distributions. The WFP guidelines also state that women should take a lead role in local decision-making committees on food aid management as well as the management of assets created through food-for-work programmes.

193. Poor sanitation and contaminated water supplies contribute to high death rates in many refugee situations. Women in refugee and displaced persons camps, like many other women in developing countries, spend a great deal of time in water collection. Containers that are too heavy or pumps that are inconveniently located can increase the work burden. When clean water is not available, children in particular run the risk of life-threatening diarrhoeal diseases. Collection of fuel for cooking and heating is also a task for which women are generally responsible. In a

refugee or displaced persons context, however, efforts to find firewood can be not only time-consuming (if located at some distance from the camps) but also dangerous (if located in mine-infested areas or the site of conflict).

194. The health problems refugee and displaced women and children face are similar to those of other women and children in developing countries, but many of them are compounded by the refugee experience. Apart from nutritional problems, refugee women can suffer from physical disabilities resulting from their refugee experience. They may be the victims of mine explosions. Loss of limbs is not uncommon both in flight and in camps. Once the emergency phase is over, a leading cause of death among refugee and displaced women of childbearing age is complications from pregnancies. Lack of training of midwives and traditional birth attendants, septic abortions, unsanitary conditions during birth, septic instruments, poor lighting during deliveries and frequency of pregnancies all lead to health problems.

195. A further persistent problem is the distribution of sanitary materials. Since 1996, UNHCR has required all field programmes to include sanitary materials in regular budgets. A survey of 52 UNHCR offices found low compliance, however. The unavailability of these materials is not just an inconvenience to refugee women and adolescents. It is a major impediment to their full participation in the life of the camp society: according to the Women's Commission for Refugee Women and Children (2002b, p. 28), "in both Ethiopia and Zambia girls stayed away from school and sometimes remaining in their houses because they had nothing decent to wear during monthly menstruation".

196. Health complications also arise from female genital cutting, a practice in some parts of Africa and the Middle East that carries over into refugee and displaced persons camps. Problems include infections resulting from instruments that are not sterile, damage to adjacent organs, obstructed menstrual flow, painful intercourse, severe blood loss and obstetric complications.

197. Health services for refugees and displaced persons have in the past too often overlooked women-specific needs. However, an assessment of the UNHCR *Guidelines on the Protection of Refugee Women* (1991) concluded "that UNHCR and its partners have made important strides in providing reproductive health services. In contrast to a decade ago, when such services were rare, they are presently an integral part of health care delivery programmes in some places" (Women's Commission for Refugee Women and Children, 2002b, p. 30).

198. Representatives of United Nations agencies, non-governmental organizations and Governments formed the Inter-agency Working Group on Refugee Reproductive Health. The Working Group produced a field manual that outlined the Minimum Initial Service Package (MISP), which was designed to prevent and manage the consequences of sexual violence, reduce HIV transmission, prevent excess neonatal and maternal morbidity and mortality and plan for the provision of comprehensive reproductive health services (World Health Organization, United Nations Population Fund and Office of the United Nations High Commissioner for Refugees, 1999). Several non-governmental organizations also came together as the Reproductive Health for Refugees Consortium to offer actual services for refugee and displaced women and girls.

199. Safe motherhood is an essential component of the Minimum Initial Service Package. In the acute stage of a humanitarian emergency, neonatal and maternal morbidity and mortality can be reduced by providing clean delivery kits to promote clean home deliveries, by providing midwife delivery kits to facilitate clean and safe deliveries in health facilities and by initiating the establishment of a referral system to manage obstetric emergencies. Once conditions have become more stable, comprehensive services for antenatal, delivery and postpartum care should be established.[15] Also needing attention are post-abortion complications for those suffering the complications of spontaneous and unsafe abortion.

200. Family planning services are a second priority in reproductive health services. From the beginning of an emergency, relief organizations should be able to respond to the need for contraception, particularly the distribution of condoms. Providing a full range of family planning services may require more stable conditions. A range of contraceptives should be provided, as well as assessment of needs, counselling and information about methods, and follow-up care to ensure continuity of services. Providers must have the technical skills to offer the methods safely, and they must have an adequate logistics system to ensure continuity of supplies.

201. Programmes to address gender-based violence, including sexual abuse, have grown along with other reproductive health services during the past decade. Programmes generally advocate a multisectoral approach that takes into account the prevention of abuses, the physical and psychological ramifications of violence, the potential need of the victim for a safe haven, the longer-term economic needs of vulnerable populations, the legal rights of victims, training of police and security personnel, and other similar issues. For example, Medica Zenica in Bosnia and Herzegovina began addressing war-related violence but quickly expanded its programming. It now has a counselling centre, medical services, a hotline and two safe houses with education, training and microenterprise activities. Its research unit collects and analyses data on gender-based violence to be used in prevention and advocacy programmes. Women in Burundian refugee camps in the United Republic of Tanzania undertook needs assessments that indicated that a breakdown in family, community and government structures led to an increased incidence of violence against women. Resulting programmes include a drop-in centre for survivors of violence, at which their critical health and protection needs are addressed; community awareness-building activities that reach out to men as well as to women to discuss the prevalence and reasons for gender-based violence; social forums for women to discuss issues affecting their lives; and training for staff of service providers in the camps to alert them to issues surrounding gender-based violence (Reproductive Health Outlook, n.d.).

202. In addition to physical health concerns, some refugee and displaced women suffer from mental health problems. At a minimum, refugee and displaced women face emotional and other difficulties in adjustment resulting from loss of family and community support. More serious mental health problems are not uncommon, arising from torture and sexual abuse prior to or after flight. Depression and post-traumatic stress disorder often follow experiences of rape and abduction in refugee situations.

203. A number of health programmes were developed in the 1990s to address the psychosocial needs of refugees and displaced persons. Programmes for refugee women and girls tend to range from specialized mental health services to play,

sports and other recreational groups for traumatized children and to income-generating activities for traumatized women. The aims are to prevent to the degree possible the traumas and stressors that negatively affect mental health, and to strengthen the capacity of refugees to cope with the traumas and stressors when prevention fails.

204. The Executive Committee of the Office of the United Nations High Commissioner for Refugees has reaffirmed the fundamental right of refugee children to education and, at its thirty-eighth session, called upon all States, individually and collectively, to intensify their efforts to ensure that refugee children benefit from primary education. Nevertheless, the right to education continues to be abridged, particularly for girls. In 2000, fewer than 800,000 of an estimated 2.3 million children and adolescents receiving assistance from UNHCR were enrolled in schools. As a UNHCR report on education concluded, "one-third of refugee children (excluding infants) and adolescents in populations categorized as 'UNHCR assisted' are in UNHCR-supported schooling, and ... perhaps 40 per cent are in school altogether" (Sinclair, 2001).

205. Educational coverage varies by refugee group, duration of displacement and other factors that influence the readiness of Governments to support education, of parents to send children to school and of children to remain in school. An evaluation by UNHCR found that "on a global basis, female refugee participation in education remains low, following patterns in countries of origin (ranging from 10 per cent to 40 per cent of students at the primary level, less in secondary and vocational studies, and only 25 per cent of all students at the tertiary level)" (United Nations, United Nations High Commissioner for Refugees, 1997, para. 18). Poverty, which disproportionately affects women, further impedes enrolment in schools. Families may fear that adolescent girls will be subject to greater sexual harassment if they leave compounds to go to school. Lack of appropriate clothing and sanitary materials may also impede educational attainment.

206. There have been successful programmes to overcome the barriers to education for girls. In Pakistan, where Afghan girls traditionally had limited access to education, the 1990s saw major increases in girls' participation. Coverage for girls has increased dramatically since the mid-1990s, thanks to a range of measures and perhaps general social change, possibly the desire of educated young refugee men for literate wives. It was much helped by the decision of the World Food Programme to provide about 4 kg of edible oil per month to girls who attend school regularly. That helped to overcome the perception that it was pointless for Afghan girls to attend school and too costly for poor families, in terms of requirements for decent clothing (Dunkley, 1997). A similar programme in Iran also encourages the education of Afghan girls in refugee camps (Bertini, 2003).

207. Refugee and displaced women face many of the same impediments to education and skills training as children do — inadequate resources, teachers and classes — as well as additional barriers. Traditional views of the role of women sometimes prevent them from accepting work or undertaking training that takes them out of the household. There may be restrictions on the type of work that is considered to be appropriate for women. Practical problems can constrain enrolment, including a need for day care and lack of time and energy after household work and/or jobs as a wage earner. Many skills training programmes also assume some level of prior education, most notably in terms of literacy. Refugee and

displaced women may not qualify for such programmes, having been discriminated against in their country of origin in obtaining elementary education.

208. Other constraints relate to the design and contents of training programmes. In some cases, programmes have been too far removed from the everyday life activities of the refugee women and have therefore appeared to be irrelevant to their needs. Some vocational training programmes have focused on skills that are not marketable in the refugee context or follow traditional patterns that are not sustainable for income-production. Despite those constraints, programmes designed to redress illiteracy and provide income opportunities have often met with great enthusiasm and success. For example, Women's Education for Advancement and Empowerment (WEAVE), based in Chiang Mai, Thailand, works with refugees from Myanmar to train health-care workers in maternal and child health and HIV/AIDS awareness. It provides nursery schools so that women are able to attend the classes (Women's Commission for Refugee Women and Children, 2000).

D. Peace, repatriation and reconstruction

209. Refugee and displaced women are important resources for the development of post-conflict countries. They have often learned skills in refugee camps that are in short supply in their home country, such as literacy and productive trades. For example, in the refugee camps in Honduras and Mexico, international organizations, local and international non-government organizations and volunteers provided humanitarian assistance, skills training and professional attention for refugees. As a result of international support for the basic needs of the refugee population, women in the refugee camps had more time for community activities and education. Refugee women learned a wide range of new skills, including literacy, the Spanish language (in the case of Guatemalan refugee women) and productive trades. They engaged for the first time in community activities and worked collectively. They made political contributions that were valued by the community as a whole and in the process became more self-confident, aware of their rights and more assertive (Fagen and Yudelman, 2001; Pessar, 2001). Today, the lives of the women who experienced empowerment in exile have reverted largely to the conditions of the *status quo ante*, but with changed attitudes. In both El Salvador and Guatemala there is evidence that the impacts of their experiences are likely to change the futures of their children. There are already indications in both contexts that the younger returnees who came of age in the camps are seeking alternatives to traditional female roles (Fagen and Yudelman, 2001; Pessar, 2001).

210. Lack of economic opportunities on return is one of the most serious assistance and protection issues facing returning women and children. High rates of unemployment are common in countries emerging from conflict, particularly when landmines prevent resumption of agricultural activities, and no alternative employment is available.

211. Reclaiming property is a problem that faces many returning refugees and internally displaced persons. Government authorities may have seized land. Other people, sometimes equally in need, may have moved onto the property after the refugees and displaced persons fled. Often, internally displaced persons live in housing formerly occupied by refugees. A number of specific difficulties are faced by women, particularly widows, in reclaiming property. The UNHCR *Handbook on*

Voluntary Repatriation: International Protection emphasizes the need to take those issues into account in planning and carrying out repatriation programmes:

> "Special attention needs to be paid to the question of access to land for residential and agricultural use by returnee women heads of households. If the local legislation or traditional practice does not grant returnee women the same rights to land as returnee men, UNHCR has to draw the attention of the authorities to this problem and seek to find suitable ways to rectify the situation. If this is not done early enough, there is a danger that returnee women may lose out in the competition for land, either by not getting access or being evicted. This may in turn lead to increased vulnerability and possible internal displacement. In any case, UNHCR has to closely monitor the handling of returnees' access to land and to ensure, if necessary through intervention, that returnee women have access to land on the same footing as returnee men" (United Nations High Commissioner for Refugees, 1996, section 6.2).

212. As an example, Guatemalan refugee women living in Mexico were the beneficiaries of a concerted effort by UNHCR, joined by the Central American Governments and other United Nations representatives, to ensure that provisions were included in national legislation, giving women the right to inherit and own property.

213. Demobilization of combatants is a further issue that affects the protection of refugees and displaced persons in post-conflict situations. If not given access to alternative economic opportunities, the demobilized soldiers may resort to violence, including domestic violence. Many demobilizing women and girls have been raped. In Sierra Leone, for example, "rape is often a taboo subject [and] failure to confront the issue perpetuates a culture of silence that exacerbates an already difficult recovery from these crimes. Advocacy and community sensitization work focused on preparing families and communities for their return and creating sympathy for them rather than stigmatization has only scratched the surface of what is needed" (Women's Commission for Refugee Women and Children, 2002a, chap. VIII, p. 25).

214. In response to the needs of women in post-conflict societies, the Office of the United Nations High Commissioner for Refugees, with the active encouragement of several donor countries, has established special women's initiatives. Although providing only a fraction of the resources needed, women's initiatives in Bosnia, Rwanda and Kosovo have made important contributions to helping women to adjust to post-conflict life. The initiatives have supported programmes for psychological support, community services, literacy and education, reproductive health education, prevention of sexual and gender-based violence, microcredit and income-generation, skills training and capacity-building of women's groups, and legal assistance.

E. Refugee resettlement

215. Some refugees are unable to return or to remain in countries of first asylum. They may be candidates for resettlement to a third country. Resettlement in third countries is generally considered to be the least desirable solution for refugees because it moves them far from their own countries and cultures. In many situations, however, resettlement is the best solution for the individuals and groups involved,

particularly when it is needed to provide protection or durable solutions for refugees.

216. Many refugee women and children who resettle in third countries enter as part of a complete family unit (Martin, 2004). Among some refugee populations, however, a significant number of women-headed households have resettled. In response to the difficulties faced by women at risk, UNHCR has identified the need for special "women at risk" programmes for the admission of refugee women who face specific protection problems. The Office of the United Nations High Commissioner for Refugees *Resettlement Handbook* (2002c, section 4.5.2) states: "When, despite all possible efforts, it is unlikely that the particular protection problems or related needs of a refugee woman can be adequately addressed in the country of refuge, resettlement should be actively considered".

217. More specifically, the *Handbook* states:

> "In some instances resettlement may be the preferred and often only solution. This could be the case when women have been raped and when in their society and in their country of refuge a survivor of rape is ostracized. Such a situation could be aggravated when the refugee woman gives birth to a child conceived through rape. In addition to the possible serious consequences of a rape on her physical and mental health, the refugee woman may suffer lifelong rejection by her own family and community" (United Nations High Commissioner for Refugees, section 4.5.2).

According to the *Handbook*, for purposes of resettlement

> "UNHCR considers as women-at-risk those women who have protection problems, and are single heads of families or are accompanied by an adult male who is unable to support and assume the role of the head of the family. They may suffer from a wide range of problems including expulsion, refoulement and other security threats, sexual harassment, violence, abuse, torture and different forms of exploitation. Additional problems such women face could derive from persecution as well as from particular hardships sustained either in their country of origin, during their flight or in their country of asylum. The trauma of having been uprooted, deprived of normal family and community support or cultural ties, the abrupt change in roles and status, in addition to the absence of an adult male head of family, renders some women, under certain circumstances, more vulnerable than others" (ibid., section 4.5.3).

218. Some countries have established specific women-at-risk programmes, including Australia, Canada and New Zealand. Other resettlement countries such as the United States of America grant resettlement to refugee women at risk under the normal processing modalities. UNHCR also encourages special programmes that address some of the special needs of women at risk (Martin, 2004). Those programmes are very small, however, reaching few of the women refugees who might qualify.

VI. Human trafficking and smuggling

A. Human smuggling

219. A serious trend in recent years has been the emergence of professional smuggling and trafficking operations. Smuggling is defined in international law as "the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident".[16]

220. The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, reflects the need to distinguish clearly between undocumented migrants and trafficked persons. While undocumented migrants willingly accept to pay in order to be transported across borders in search of better life prospects, trafficked persons are victims of criminal groups who exploit them.

221. There is a fine line between smuggling and trafficking as women smuggled by traffickers may believe they will work in legitimate occupations but find themselves trapped into forced prostitution, marriage, domestic work, sweatshops and other forms of exploitation that constitute a contemporary form of slavery. In addition, traffickers control victims through debt bondage, taking advantage of the inability of migrants to pay in advance the high fees for the travel arrangements, as fixed by the traffickers. Debt bondage can amount to virtual slavery, particularly for women and children forced into sexually exploitive occupations.

B. Human trafficking

222. Trafficking is defined as "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation".[17] The trafficking of people for prostitution and forced labour is one of the fastest-growing areas of international criminal activity and one that is of increasing concern to the international community. Numbers of trafficked persons are difficult to quantify accurately because the practice is illegal and hidden. To date there is no sound, standardized methodology for collection of statistics on trafficking. Therefore, all figures that are circulated are rough estimates and projections. Europol (2004) states, "The nature of the crime makes it difficult to estimate exactly how many victims are trafficked in the European Union as well as the rest of the world but there are reasons to believe that they should be counted in the hundreds of thousands".

223. Traffickers acquire their victims in a number of ways. Sometimes women are kidnapped outright in one country and taken forcibly to another. In other cases, traffickers entice victims to migrate voluntarily with false promises of good well-paid jobs in foreign countries such as au pairs, models, dancers or domestic workers. Traffickers advertise these false jobs as well as marriage opportunities abroad in local newspapers, and they use marriage agency databases and matchmaking parties to find their victims. In some instances, traffickers approach women or their families

directly with offers of lucrative jobs elsewhere. Sometimes traffickers approach women and girls in reception centres and refugee camps, offering a way to move on to another country of asylum with promises of better living conditions. After providing transportation and false travel documents to get victims to their destinations, they subsequently charge exorbitant fees for those services, creating lifetime debt bondage.

224. An expert group meeting organized by the Division for the Advancement of Women in 2002 concluded that trafficking has supply and demand dimensions. According to the report of the meeting, on the supply side, factors that rendered persons, especially women and children, vulnerable to trafficking were development processes marked by class, gender and ethnic concerns that marginalize women, in particular, from employment and education; displacement as a result of natural and human-made catastrophes; dysfunctional families; and gendered cultural practices, gender discrimination and gender-based violence in families and communities (United Nations, Division for the Advancement of Women, 2002f, p. 8).

225. Without demand, however, there would be no market for the services of trafficked persons. The expert group concluded that the demand-driven causes were globalization that had fuelled the development of economic sectors with a woman-specific demand for cheap labour and the growth of the commercial sex industry; restrictive immigration policies and laws that were obstacles to the demand for labour being met by supply, thereby generating a market for trafficking; exploitation in the labour market, especially exploitation of illegal and unregulated work of migrants; economic and political trade-offs between public officials and enforcement agencies that made trafficking a high-profit, low risk venture; and consumerism, greed and impoverishment of values resulting in the exploitation of the vulnerability of human beings to trafficking" (ibid.).

226. Generally the flow of trafficking is from less developed countries to industrialized nations or towards neighbouring countries with marginally higher standards of living. Even using conservative estimates, the problem is enormous, with trafficked persons usually ending up in large cities, vacation and tourist areas, or near military bases, where the demand is highest.

227. Trafficking is now considered the third largest source of profits for organized crime, behind drugs and guns, and generating billions of dollars annually (Heyzer, 2002). By its resolution 2004/110, the Commission on Human Rights established the post of Special Rapporteur on trafficking in persons, especially in women and children, in recognition of the fact that trafficking is reaching epidemic proportions.

C. Responses to trafficking

228. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air, both of which supplement the United Nations Convention against Transnational Organized Crime, went into force in December 2003 and January 2004, respectively. The trafficking protocol requires States to adopt measures to criminalize trafficking (article 5), to provide assistance and protection to victims of trafficking (article 6), to provide repatriation assistance to victims of trafficking (article 8), and to prevent and combat trafficking (article 9). The smuggling protocol requires States to adopt measures to criminalize smuggling

and to prevent smuggling (articles 7, 8, 11, 15); requires States to preserve and protect the rights of migrants who have been smuggled (article 16); and facilitate the return of migrants (article 18). The instruments require international cooperation in combating smuggling and trafficking and encourage States to pass measures for the protection of those who have been trafficked.

229. Within a few years of their adoption, the trafficking and smuggling protocols have garnered considerable support. According to the United Nations Office on Drugs and Crime, as of September 2004 the Protocol to Prevent, Suppress and Punish Trafficking in Persons has 117 signatories and 73 parties, and the Protocol against the Smuggling of Migrants by Land, Sea and Air has 112 signatories and 64 parties. During the coming years there should be careful monitoring of implementation of actions encouraged or required by the protocols to identify good practices as well as constraints and challenges to full implementation.

230. The sometimes overlapping nature of trafficking in humans, labour migration into exploitative situations and debt bondage to pay off smuggling fees calls for a careful use of those terms. Women might volunteer to migrate but then find themselves subject to violence, coercion and exploitation after leaving their home communities. Such persons have been trafficked, even if they initially consented to the smuggling arrangement.

231. Trafficking must be addressed at three levels: the supply of trafficked persons, the demand, and the traffickers and officials involved. Prevention of trafficking requires substitute economic activities for women as well as education about the risk of trafficking; the demand side concerns those who ultimately use or benefit from the services provided by trafficked women and girls, including the customers of brothels, the users of child pornography and the manufacturing companies that rely on slave labour; and finally, the problem of the traffickers themselves as well as the corrupt officials who enable them to operate with impunity must be addressed. In that respect, the capacity to prosecute and punish traffickers in an effective manner should be enhanced.

1. Prevention

232. One area that has received attention and support from Governments is education to combat trafficking in women. Accurate, timely information about migration and trafficking that is disseminated to would-be migrants gives them the means to make an informed choice about migrating. Information is thus an important empowerment tool, diminishing the ability of traffickers to exploit a lack of knowledge in potential migrants.

233. A study of trafficking in the Balkans concluded that the most effective education campaigns involve participation of local groups. The author found that knowledge of the existence of trafficking was widespread but that an understanding of how trafficking related to specific groups and communities was less apparent to the potential victims of trafficking. The study states "What is lacking is the recognition that trafficking is a problem for particular groups/communities and the lack of involvement of those groups in counter-trafficking activities. As long as trafficking is perceived as an issue concerning migrant women and anti-trafficking activities are organized by international organizations, there will be no real counter-trafficking activities at the local level" (Limanowska, 2002, section 2.2).

234. The International Labour Organization has identified a number of effective awareness-raising programmes to help prevent trafficking. In Bangladesh, the Government and international donors organized a month-long road campaign to highlight trafficking and other crimes against women. The campaign also educated communities about how to assist trafficked persons and reintegrate them into their communities. In Nepal, local non-governmental organizations, including one composed of trafficking survivors, organize awareness-raising programmes that include peer education. One of the non-governmental organizations targets adolescent girls in slums and squatter areas, recognizing that they would be particularly vulnerable to traffickers. Two non-governmental organizations in the Dominican Republic offer a certificate programme for public officials on issues of gender equality, migration and trafficking.

235. While the importance of education cannot be overemphasized, preventive activities must go beyond awareness training. Prevention requires attention to two other issues: the need to provide economic opportunities at home and the need for legal channels of migration for women who might otherwise resort to smugglers and traffickers. Based on studies of trafficking survivors, one can conclude that education about the dangers of trafficking does not work unless women have alternative ways of earning money for themselves and their families. As long as gender inequality diminishes economic opportunities for women, they will be vulnerable to the exploitation of traffickers.

236. Skills training and income-generation activities can provide alternatives when targeted at women and girls who might otherwise be trafficked. In India, the Karnataka State Industrial Investment and Development Corporation began a programme to train women in handloom weaving. A total of 4,500 women have thus secured employment, and one fourth of the women and girls are children of Devdasis (women traditionally dedicated to a temple and later used for sexual exploitation). With the help of such schemes, a second generation of trafficking is prevented and the children of Devdasis have a respectable method of earning a livelihood.[18]

237. Beyond such targeted programmes, prevention requires empowerment of women, which often in turn requires fundamental changes in their roles and recognition of their rights. Examples of empowering changes that could reduce vulnerability to trafficking include free compulsory education of the girl child; elimination of discrimination against women and girls; adoption of family laws that do not discriminate on the ground of sex, in particular on granting equal property rights and inheritance rights; and labour laws that provide equal pay for equal work and special enabling provisions for women, such as maternity leave and creches. In addition, national laws dealing with crimes especially targeted against women and children are required. These may relate to domestic violence, dowry deaths, "honour" killings, other harmful customs such as female genital cutting, child marriages, witch-hunting, rape — including custodial and gang rape — sexual harassment, kidnapping, assault and sexual abuse.[19]

238. Preventive activities need to go beyond activities in countries of origin. Destination countries should introduce measures to reduce the invisibility of exploitation through greater intelligence gathering on the labour markets and in the sex industry and by addressing the problem of unprotected and informal labour, taking measures to raise levels of social protection and adopting measures, whether

legislative, educational, social or cultural, to discourage the demand that fosters all forms of exploitation of persons.

2. Prosecution

239. Effective prosecution of traffickers is also an essential part of any strategy to reduce the vulnerability of women and girls to this phenomenon. Many countries have yet to pass laws that explicitly criminalize smuggling and trafficking. Other countries have passed laws criminalizing trafficking but have defined the term very restrictively to include only trafficking for sexual exploitation. Often countries fail to enforce smuggling and trafficking laws against their own officials (police and immigration officers) who enable the criminal activity.

240. Effective prosecution requires a legal framework that makes human trafficking a serious criminal offence. The United Nations has provided guidelines for such a legal framework, encouraging States to pass laws to define precisely the crime of trafficking and cover all trafficking practices, including debt bondage, forced labour and enforced prostitution. The legislation should also provide for effective and proportional criminal penalties, providing additional penalties for such aggravating circumstances as the trafficking of children or those involving complicity of State officials. Steps should also be taken to permit the confiscation of the instruments and proceeds of trafficking, with those proceeds used for the benefit of victims of trafficking whenever possible (see E/2002/68/Add.1).

241. Along with legislative reforms, States need to develop law enforcement tools and techniques that will be effective in identifying and punishing traffickers. Law enforcement officials must be sensitized to the crime of trafficking and provided with the training needed to undertake investigations and prosecutions of trafficking offences. The United Nations recommends that Governments establish specialist anti-trafficking units, comprising both men and women, to promote greater competence and professionalism.

242. Training of law enforcement officials is essential to effective prosecution. Proper implementation of laws requires legally mandated special training programmes for the police, to sensitize them to issues relating to forced migrations, illegal migrations and exploitation of the vulnerable — whether customary or otherwise; and to sensitize them to gender dimensions of the problem. Such training programmes should help in targeting the traffickers and promoters of illegal migration rather than the victims. The programme should train the police regarding the seriousness of the crime and also train them to trace the entire chain of traffickers.[20] Similar training is needed for the judiciary, particularly judges who hear cases involving prostitution, in order to sensitize them to the presence of trafficking victims among defendants.

3. Protection

243. Crime prevention and prosecution need to be balanced with protection of the rights of the trafficked women and children. National laws that carry particularly harsh punishments for undocumented workers can be insensitive to the particular needs of victims of trafficking and inconsistent with the principles of the anti-trafficking protocols.

244. The testimony of trafficking survivors is generally invaluable to the prosecution of cases against traffickers. Trafficking is a difficult crime to investigate and highly dependent on the willingness of victims to cooperate with law enforcement. Such cooperation can be highly dangerous for the women and children, however. They will be too afraid to testify unless there are effective ways to prevent retaliation against them or their families at home.

245. The United Nations recommends that law enforcement officials work in partnership with non-governmental organizations to help ensure greater protection of the victims of traffickers. Law enforcement should also implement measures to "ensure that 'rescue' operations do not further harm the rights and dignity of trafficked persons. Such operations should only take place once appropriate and adequate procedures for responding to the needs of trafficked persons released in this way have been put in place" (see E/2002/68/Add.1).

246. Identification of trafficked persons is exceedingly difficult, requiring a multisectoral approach rather than reliance on law enforcement. When trafficked persons come to the attention of authorities through raids on brothels and other places of employment, the victims are often afraid to reveal their situation. They may fear retaliation by the traffickers, who often have paid police for their cooperation, or they may fear that they will be imprisoned or deported. Social service agencies, hospitals and clinics, schools, labour inspectorates, trade unions, ethnic associations and other parts of civil society must be involved in the identification of women and children who have been trafficked.

247. States should consider a number of options with reference to the future safety and security of trafficking survivors. In some cases, the women and children can return safely to their home countries. In other cases, however, they should be allowed to remain in the destination country. They and their families may need to be enrolled in witness protection programmes to ensure that the traffickers do not retaliate against them. In the case of asylum-seekers and refugees found among the trafficked and smuggled persons, full consideration should be given to their claims for international protection.

248. Laws in some countries provide for temporary or permanent legal status to trafficking victims. Often the legislation requires cooperation with law enforcement agencies in the capture or prosecution of the traffickers. In some cases, family members still in the country of origin will be admitted to the country of destination if the traffickers are likely to retaliate against them. The United States Victims of Trafficking and Violence Protection Act, enacted in 2000, in addition to increasing criminal penalties for traffickers, provides immigration benefits to victims of severe trafficking who cooperate in the prosecution of traffickers, including a special visa and access to benefits granted to refugees. A number of European countries have similar provisions that grant residency status to trafficked persons who cooperate with law enforcement. Such countries as Germany and the Netherlands have official "reflection periods" during which trafficked persons are given time to decide whether to cooperate in the prosecution of their traffickers. In 2004, the European Union adopted a Council directive on short-term residence permits to those who cooperate with the authorities.

VII. Gender roles and integration of migrant women

A. Gender roles and family relations

249. International migration profoundly affects gender relations, at both household and community levels, in complex ways. In many respects, migration enhances the autonomy and power of women. When women from traditional societies migrate to industrialized societies, they become familiar with new norms regarding women's rights and opportunities. If they participate in wage employment, they gain access to financial resources that had never before been available to compensate their labour. Even if their pay is pooled with the earnings of other family members, this wage-earning capacity often gives women greater ability to direct household priorities (Pessar, 1999; Zentgraf, 2002). Many immigrant women can, however, lose autonomy when they move, particularly if they do not know the new language and have difficulty in adapting to the new society.

250. Women who are left at home as their husbands migrate also experience changes in their roles. The stay-at-home spouses may now have greater household and economic responsibilities. Although they may be financially dependent on remittances from their overseas relatives, such women may have substantial autonomy over decisions about how the funds are used. If their husbands do not return home or stop sending remittances, the women may have to assume even greater responsibility for themselves and their children. Not all women, of course, benefit from such situations, particularly if there are no alternative sources of support.

251. In Asia, when men migrate, leaving their families behind, there appears to be evidence that the women-headed households adjust rapidly to the situation. Women continue their usual activities, but they also take on new roles in the absence of their spouses. Men retain their role as breadwinner, albeit at a distance. Little information is available on the reintegration process when men return, but experts speculate that tensions are likely to arise as women and children readjust to their presence (United Nations, 2004a).

252. By contrast, women's migration results in more profound changes in family relationships. Men do not necessarily take up new domestic roles although some become full-time caregivers. They often continue to work for pay outside the home. Grandmothers, older daughters or other family members typically assume responsibility for childcare and other household activities. Sometimes the children are left behind because the working conditions for the women preclude their having accompanying family members or they have no access to childcare. At other times the children are left with grandparents or other relatives because the parents prefer a more traditional environment for the children (Hugo, 1994). The impact on the migrating mother who leaves family behind is hard to quantify, but it is likely to involve emotional and social costs.

253. Even when the entire family migrates, such mobility can lead to tensions between women and men. Grasmuck and Pessar's (1991) analysis of Dominican migration to New York City demonstrated that gender relations are central to the decision-making process on whether a family will consider migration, who in the family will migrate, what resources will be allocated to the migrants, the estimated amount of remittances household members will be expected to return, and whether

the migration will be temporary or permanent. The analysis found that women were very reluctant to return; they struggled to retain the gains that migration and wage employment brought them. Men, however, were eager to return. Men tried to accumulate savings, while women bought items such as refrigerators and sofas that would ground their families in New York. They realized that returning would mean retirement from paid labour and loss of freedoms. As a result, tensions developed over finances and over new gender roles.

254. For women who migrate from developing to developed countries, adjustment to the new culture can be a difficult process. Barriers to successful adjustment include those within the host society as well as individual or personal ones. Among the former are racial intolerance and sexual and cultural discrimination against foreign women. Many migrants are of a different race from the majority of the population of their new country. Migrant women may face the dual problem of racial and sexual discrimination in seeking employment, training or otherwise participating in the activities of the new country. As with male migrants, professional women may find that their credentials are not recognized or valued in the new country.

255. The migrant's legal status is an important factor influencing the ease with which she will be able to adjust. Immigrants and refugees who have been admitted legally generally enjoy all the rights of other residents. Asylum-seekers are generally in a more insecure position while they await their hearings. They may be ineligible to seek employment or receive services. The procedure may be protracted, leaving them in limbo for long periods of time. Not knowing if they will be able to remain permanently, asylum-seekers may not actively seek out services. Those who enter with no authorization and are ineligible for any legal status are in the most precarious state, unable to work legally or access services.

256. Personal barriers to adjustment include family conflicts, traumas suffered during flight, illiteracy, lack of language skills and religious constraints. Changes in family roles often accompany migration. Some families have experienced long periods of separation. Male roles may change drastically in the new society. If their skills are not readily transferable to industrialized countries (for example, agricultural skills), the men may find themselves unable to support their families:

> "Men often feel neglected and disappointed, which sometimes brings out patriarchal habits and efforts to re-establish traditional roles — even by force if necessary. In a situation where men are unsure of themselves, they often become sceptical about their wives. Their own feelings of inferiority can lead to their doubting the love or trustworthiness of their wives. When men mistrust their wives, they may restrict them and try to control them in an effort to boost their egos" (Weissinger, 1989, p. 157).

257. The adjustment may be particularly difficult in forced migration situations. Women in refugee camps generally continue to be productive members of their families, responsible for such domestic activities as food, water and firewood collection, preparation of meals and other household chores. By contrast, men often find that they cannot fulfil their traditional productive role in agricultural or other employment. Adolescent boys may believe they have no economic alternatives other than joining military forces or gangs (Turner, 1999). The frustrations experienced by men can result in increased family tensions, domestic violence, depression and/or alcoholism.

258. International migration can also lead to intergenerational tensions, particularly when children adapt more quickly than their parents to a new language and sociocultural system. Seeing their children adopt unfamiliar practices may prompt some migrant women to recommit themselves and their families to more traditional, often patriarchal mores. Some countries are beginning to study biculturalism among migrant children. Those studies should be pursued, with particular emphasis on the differential effects on young boys and girls, in order to truly understand the complexities of international migration. In many cases, the women migrate but must leave their children behind, creating other tensions and dilemmas (Hugo, 1994).

259. Immigration rules can also reinforce traditional roles. Since many migrant women obtain legal residency status through family reunification or formation, their ability to exercise rights may be limited by their spouse's willingness to support their immigration claims. Migrant women who are victims of spousal abuse, for example, may be unwilling to leave the abuser if he controls access to legal status. In recognition that immigration laws can make women and their children vulnerable, some countries have legislation permitting abused women to petition on their own for legal status.

260. Just as migration can affect gender roles, changing gender roles can influence immigration policies. The growing participation of native-born women in the labour force has affected the admission of foreign women to provide childcare, elder care and domestic services. New policies are also under development to provide work authorization to spouses of executives, managers and professionals, in recognition that many of these highly sought migrants will not move if their spouses (male or female) are unlikely to carry on their own professions.

B. Economic integration of migrant women

261. Economic integration, while not the only benchmark of successful migration, is a core measure of equity and opportunity. Economic self-sufficiency affects not only the immigrants, but also impacts on the host country and ultimately the perception of the host society as to the costs and benefits of immigrants.

262. Female labour force participation among immigrants varies considerably in countries of destination. In general, labour participation by female immigrants is lower than among natives. For example, according to a report of the United States Census Bureau, "in the 25 to 54 age group, which accounts for most of the labour force, the participation rates were 66.5 per cent for foreign-born women and 79.4 per cent for native women" (Schmidley, 2001, p. 38). The labour force participation rates were lowest among those who had arrived within the previous ten years (56.1 per cent) and highest among those who had become naturalized (77.4 per cent). Most European countries experience similar disparity in labour force participation of foreign and native women. In Ireland, Luxembourg, Portugal and Spain, however, the labour force participation rates of foreign women (in the country for ten years or longer) are higher than for native women (Lemaitre and Dumont, 2004).

263. Unemployment rates among women immigrants in the labour force are generally higher, although there are differences by country of destination. In the Organization for Economic Cooperation and Development (OECD) countries, unemployment rates among foreign women ranged from 4.5 per cent in Norway to 29.9 per cent in Finland. In Norway, as in Finland, France and Italy, the level of

unemployment among foreign women was almost two to three times as high as that of natives (see table 4). By contrast, in Greece and Spain, which have high levels of unemployment, foreign women do no worse or even a little better than native women. On average, however, migrant women are disadvantaged relative to native and foreign men as well as to native women, reflecting the double negative effect of being foreign and female.

264. The employment situation varies by the country or region of origin of the migrants. A recent study of the European Union examined participation in the labour market and unemployment rates, finding that female migrants from Africa, the Middle East and Turkey tended to have particularly low labour force participation and high unemployment, whereas women from North America and Australia had high labour force participation and low unemployment (Munz, 2004).

265. Asylum-seekers are often barred from working, at least until they obtain asylum or a complementary status. They may be isolated in reception centres during the application process. If the reception centres are situated in remote areas, the refugees may find it difficult to obtain jobs even when authorized to do so.

266. The labour market experience of immigrants has gender dimensions that affect their economic integration. The gender dimensions parallel gender inequalities and stereotypes that exist in the receiving societies. Women tend to take jobs in the private sphere, with domestic work, garment manufacturing, entertainment jobs and service jobs being commonly held occupations (Gozdziak and Martin, 2004; Kofman et al., 2000). More highly skilled migrant women disproportionately find employment as teachers and health professionals (Gozdziak and Martin, 2004). Those jobs follow well-recognized gender patterns in terms of acceptable economic activities. They also tend to have lower earnings relative to typical male employment. According to the United States Census Bureau (Schmidley, 2001, p. 42), "in 1999, median earnings for full-time, year-round ... foreign born male and female workers were $27,239 and $22,139, respectively, compared with $37,528 and $26,698 respectively, for native male and female workers".

267. Owing to their lower earnings, immigrant women, particularly as they age, are also more likely to need social services and benefits. A European Commission report (2003, p. 36) stated the following: "This phenomenon arises especially due to their specific experiences of discrimination as women and immigrants. The combined effect for many immigrant women amounts to a kind of 'social invisibility.' Hence welfare and public services are required for survival". Despite the heightened need, immigrant women are also less likely than other residents to know of their eligibility for such benefits.

268. Migrant women may also not be able to benefit from language and skills training courses to help them find employment and upgrade their earnings. Barriers to women's access to language training include cultural constraints on women attending classes or otherwise participating in activities that take place outside the house. Practical problems, such as the need for day care and transportation, also impede the ability of women to attend classes. Language training programmes may be geared towards very academic study, whereas the women have had no previous education and require survival skills as at least a first step in adjusting to the new culture. Class hours may also conflict with household or work demands.

Table 4
Migrant and non-migrant workers in selected OECD countries, 1995 and 2000

	Foreign workers (Thousands of US dollars)		*Total labour force (Percentage)*		*Unemployment rate 2000-2001 (Percentage)*				*Unemployment ratios*	
Country	*1995*	*2000*	*1995*	*2000*	*Nationals (Male)*	*Foreigners (Male)*	*Nationals (Female)*	*Foreigners (Female)*	*For/nat (Male)*	*For/nat (Female)*
Austria	366	377	9.7	9.8	3.9	8.4	3.9	8.6	2.2	2.2
Belgium	327	266	7.9	8.4	4.6	14.2	7.0	16.5	3.1	2.4
Denmark	54	78	0.2	2.8	3.6	12.2	4.9	7.2	3.4	1.5
Finland	18	34	0.8	1.3	10.0	24.2	11.2	29.9	2.4	2.7
France	1 566	1 571	6.3	6.1	7.1	17.1	10.7	23.9	2.4	2.2
Germany	3 505	3 429	9.1	8.8	7.2	13.4	7.8	11.7	1.9	1.5
Greece	71	163	1.7	3.8	7.2	7.6	16.2	17.6	1.1	1.1
Ireland	42	60	3.0	3.5	4.1	5.1	3.8	6.2	1.2	1.6
Italy	100	246	0.5	1.1	8.0	7.4	13.9	21.3	0.9	1.5
Netherlands	281	298	3.9	3.7	1.9	4.7	2.9	7.0	2.5	2.4
Norway	59	75	2.7	3.2	3.7	5.3	3.4	4.5	1.4	1.3
Portugal	21	104	0.5	2.2	3.1	8.4	5.1	9.6	2.7	1.9
Spain	121	227	0.8	1.4	9.3	12.9	19.8	17.2	1.4	0.9
Sweden	186	205	4.2	4.8	5.5	16.1	4.6	13.0	2.9	2.8
Switzerland	729	717	18.6	18.3	1.3	4.3	2.6	6.4	3.3	2.5
United Kingdom	1 011	1 220	3.6	4.2	5.5	16.1	4.4	7.9	2.9	1.8
Australia	2 139	2 365	23.9	24.5	6.7	6.6	5.8	6.9	1.0	1.2
Canada	2 839		19.2		10.3	9.9	9.5	11.6	1.0	1.2
United States	14 083	17 384	10.8	12.4	4.9	4.4	4.1	5.6	0.9	1.4
Average			**6.7**	**6.7**	**5.7**	**10.4**	**7.5**	**12.2**	**2.0**	**1.8**

Source: International Labour Organization, *Towards a Fair Deal for Migrant Workers in the Global Economy* (Geneva, 2004), table 3.1.
Note: Foreign workers are non-nationals (Europe) or foreign born (Australia, Canada, United States of America).

269. Female migrant associations are often able to bridge these barriers. For example, AGORA in Sweden is a meeting and activity centre for women from different ethnic backgrounds, with staff from Bosnia, Chile, Eritrea and Iran. As one study concluded, migrant women's "empowerment through the project is itself a model and an indictment of the wasted skills of and social exclusion of highly educated immigrant women" (European Commission, 2003, p. 64). Focusing on less skilled migrants and refugees, the Women's Association of Hmong and Lao, Inc., in Minnesota was founded in 1981 to serve refugee women and their families and to strengthen the relationship among Hmong, Lao and American women. Through literacy classes, ethnic meals, support groups, socialization activities, and information and referral services, the Association helps to reduce the isolation of refugee women. It also assists them in gaining access to community resources and services and has a special programme for elderly refugees to help their adjustment to the United States (Martin, 2004).

C. Economic and social impact on destination countries

270. There is no single way in which the presence of migrant women will affect a receiving country. The number of migrant women, their socio-economic characteristics and government policies all determine the impacts of international migration. The impacts can differ significantly from country to country. Even within the same country, varied impacts will be found, depending on the age, education and skill level of individual migrants.

271. In the traditional immigration countries, the foreign born/foreign national population accounts for upwards of 10 per cent of the total population. By contrast, the foreign born/foreign national population in other countries is below 4 per cent (for example, Ireland, Italy, Netherlands, Spain and the United Kingdom) (Organization for Economic Cooperation and Development, 2001). Even if women account for a significant share of international migrants, they are unlikely to have significant demographic, labour market or other generalized impacts on the society as a whole. The fiscal, economic and other impacts of female migration will also vary depending on the eligibility of migrant women to work and on such factors as whether they reside permanently, become citizens, obtain access to public assistance, enrol in language and other training programmes and/or reunify with families. The impacts are also highly conditioned by the geographical settlement patterns of migrants. If they all settle in cities, or one city, the impact will be much greater in that area than national statistics suggest.

272. The socio-economic and demographic characteristics of migrant women will further influence the impact of their migration on receiving countries. Impacts will vary depending on the age, marital status and family structure of the migrant women. Impacts will also differ in accordance with the education and skill level of the migrant women. Education and skills affect not only employment patterns but earnings and income as well, although gender roles also have a powerful effect. In the United States, for example, foreign-born women are less likely to be working than their native-born counterparts, with a higher proportion married with children. Foreign-born women who work are actually better educated than foreign-born men and have better English skills, but their earnings are less than immigrant men or native women (Capps and others, 2003).

273. Migrants tend to have a direct and positive impact on the economy and social situations in destination countries. They enhance the cultural richness in the countries by introducing diversity in social, cultural and economic arenas. When migrant women are viewed as complements (rather than competitors) to the native population, the impact of their migration is viewed by the destination country as particularly beneficial. To the extent that migrant women occupy jobs that native women do not want, particularly at the wages and under the working conditions offered, there is little direct substitution. Moreover, if the foreign women take jobs that allow native women to enter or remain in the labour force (such as childcare or elder care), migrant women will contribute significantly to the national economy. Theory dictates that new immigrants have the greatest negative impact on the immigrants already in the country since they are the most likely substitutes for their labour (Smith and Edmonston, 1997).

274. Migration in general, including the migration of women, has social as well as economic impacts in destination countries. Negative public reactions to migrant women can derive from basic cultural and linguistic differences between migrants and already resident populations. Receiving countries have adopted a number of different strategies to address community tensions. The most effective ones fall into the following broad categories: promoting tolerance through educational programmes; empowering migrants to participate in civic affairs; orienting new immigrants to the communities in which they live; mediating conflicts; prosecuting offences against racial and ethnic communities; establishing trust between migrant groups and law enforcement agencies; and reducing anti-immigrant discrimination. In addition to government efforts, non-profit groups and faith-based organizations have been particularly active in educating the public about international migration and educating migrants about the laws and values of the destination countries.

D. Citizenship and civic participation

275. For migrant women who become permanent residents of the destination country, citizenship marks a new phase in their experience. The importance of nationality was spelled out in a recent report on women, nationality and citizenship:

> "Nationality signifies the legal relationship between an individual and a State. It not only provides individuals with a sense of belonging and security, but also creates a legal link between the individual and her State. Nationals are entitled to the protection of their State — which is of increasing significance in the globalizing world with its large-scale movements of people" (United Nations, 2003d, p. 2).

276. In general, citizenship is confirmed by birth (*jus soli*), by descent (*jus sanguinis*) and/or by naturalization. Many countries permit a combination of the mechanisms to grant citizenship, but some countries rely primarily on birth or on descent and some make naturalization very difficult to obtain for most foreign nationals.[21]

277. Although each person is ideally the citizen of one country, international migration creates exceptions to the rule. In one direction, migration produces opportunities for multiple nationalities. For example, an immigrant might naturalize, becoming a citizen of her new country, but she will not necessarily lose the citizenship of her country of birth. If her country of origin provides for citizenship

by descent and her country of residence provides citizenship by birth on its territory, her children might be dual nationals. If the child's father is a citizen of a third country that offers citizenship by descent, the children might have citizenship in three countries. The reverse can happen as well. If the country of the migrant's birth provides citizenship only to those born on its territory and the country in which she gives birth provides citizenship only by descent, her children might be stateless unless she is able to naturalize.

278. In addition to the basic rules of citizenship, some countries have laws that particularly disadvantage migrant women as well as native women who marry foreign men. Those laws make it difficult for women to choose their own nationality, or they restrict the ability of male spouses to obtain the nationality of their new country, even when women spouses of natives are permitted to naturalize. Such provisions violate international human rights law. Article 9 of the Convention on the Elimination of All Forms of Discrimination against Women specifies that States parties "shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband." It also says: "States parties shall grant women equal rights with men with respect to the nationality of their children."

279. Citizenship laws with gender discriminatory provisions have been changed in some countries. For example, until 1977 a child born abroad had a claim to Canadian citizenship only if the father was Canadian or if the child was born to an unmarried Canadian mother. The Citizenship Act of 1977 allowed children born abroad to a married Canadian mother to apply for Canadian citizenship (United Nations, 2003b). In a number of countries, laws that previously restricted the access of male spouses of female nationals to citizenship were changed to enable them to obtain citizenship. In other countries, local courts have significantly more stringent requirements for citizenship for children born out of wedlock outside their territory to an unmarried father. Such children cannot obtain citizenship unless paternity is established before the child is 18 years of age and, if the child is still a minor, the father agrees to provide financial support until the child is 18 years of age.

280. Issuance of birth certificates is a problem faced by many migrants, particularly refugees. When children are born in refugee or displaced persons camps, their children may be registered with camp authorities but not receive an official birth certificate recognized by their country of origin. Upon returning to their home countries, establishing their nationality can be a problem.

281. Naturalization policies differ significantly by country. A study of the naturalization laws of 25 countries found the required period of residence for immigrants prior to naturalization varied from as little as three years to as many as ten years (Weil, 2001). In some States, the required period of residence is reduced for spouses of citizens. Ten countries required that naturalization applicants show they were of good character; and seven required renunciation of prior citizenship (ibid.).

282. A majority of countries required that naturalizing citizens demonstrate knowledge of their new country's language, with a smaller number also requiring knowledge of the history of the new country. Sufficient income requirements were found in ten countries. Such provisions can have a disproportionate impact on

women, particularly older women and women who have little or no access to language training programmes. Migrant women also tend to have lower earnings than migrant men and may have a more difficult time meeting income requirements (ibid.).

283. The existing research on gender differences and inequalities in naturalization patterns appears contradictory. Some researchers claim that men are more likely to naturalize because they are predominately in the public sphere, for example working in jobs that require citizenship. Within some immigrant groups, however, women are likely to naturalize at higher rates than men (Yang, 1994). For example, migrant women from the Dominican Republic are more likely to naturalize than their husbands (Jones-Correa, 1998).

284. The ability to participate in the civic life of their home and destination communities also affects migrant and refugee women. Some countries permit permanent residence without citizenship (so-called denizens) to participate in local elections, particularly for positions that directly affect them and their families. Even in countries that do not allow immigrants to vote, some localities permit them to vote for school boards and other local officials. Voting in home country elections is another issue with implications for women migrants. Some countries permit absentee voting by nationals living abroad while others permit only nationals residing within their territories to vote. In both situations, home country political figures may campaign for votes and contributions among migrant populations living abroad. As women migrate for labour purposes, their civic participation has become a component of electoral politics. Some migrant women's associations organize their members to influence the political decisions of both their home and host communities. Dominican women were characterized by a great willingness to engage in political activities in their new homeland (Jones-Correa, 1998).

VIII. Health and HIV/AIDS

285. Migration can profoundly affect the health and well-being of both stay-at-home and migrating women. Determining the extent to which women's health is affected is complex. It involves an interaction of broader determinants of health (including access to health-care services) and the types of illnesses to which they are exposed. Those factors are, in turn, affected by the ways in which they migrate and their legal status. Migrant women who work in hazardous jobs face occupational health problems. For example, unprotected exposure to pesticides has led to increased pregnancy-related complications, including miscarriages, among migrant women in agriculture (International Organization for Migration, 2002). Lack of healthy, regulated working conditions in manufacturing enterprises and/or the garment industry may cause migrant women to experience occupational health concerns. Women victims of trafficking are also at a high risk of injuries and sexually transmitted diseases. Mental health problems, such as depression, may result from the traumas that accompany migration. For example, refugee women may suffer from post-traumatic stress disorder, with little or no recourse to adequate care and treatment or to the support necessary at home owing to the lack of social support networks.

286. Whether migrant women are able to access appropriate and affordable health care to address those physical and mental health problems is largely determined by

their economic status, their eligibility for health services and insurance coverage, and the availability of linguistically and culturally appropriate care.

287. Migrant women face barriers to health care that can seriously affect their integration and pose challenges to health systems in destination countries. In some countries, the issue is financial. Health care is not provided universally to the residents of the country and migrants may not have sufficient resources to pay for medical services. There are other impediments to the effective use of available resources (Maggi, 2003). Health facilities may have inadequate translation and interpretation capacity. When linguistic translation is available, cultural sensitivity may be lacking. Cultural mediators are therefore necessary in order to assure a quality of care for some migrant women. Migrant women report their reliance on their children as translators. However, it is very difficult for women to discuss their medical problems, particularly of a gynaecological nature, through their children. Use of family members as interpreters also raises ethical concerns of confidentiality, informed consent and privacy between health professionals and patients.

288. The available services themselves may be seen as inappropriate from the migrant's point of view. In many cultures, for example, the Western concept of mental health therapy does not exist. Even where needed, the migrants may be reluctant to utilize the services unless efforts are made to make them more understandable and culturally accessible. Frequently migrants do not receive introductions and/or explanations to new health systems, which often causes confusion and sometimes mistrust between patients and the health professional and/or system. Medical interviews vary depending on the cultural context and can affect migrants' evaluation of how "appropriate" or "relevant" health services are in the destination country. The curricula used in training health professionals in multicultural settings where migrant patients receive treatment often do not reflect their needs. Even where there is understanding of the differing health needs of male and female immigrants, the curricula may offer little information on gender differences or on issues that may arise in treating migrant women.

289. This is particularly the case in the transmission of HIV/AIDS. The *2004 Report on the Global AIDS Epidemic* indicated the strong link between various kinds of mobility and heightened risk of HIV but also noted that "while there is a widespread prejudice that migrants 'bring AIDS with them', many migrants move from low HIV prevalence areas to those with higher prevalence, increasing their risk of being exposed to the virus" (UNAIDS, 2004, p. 83).

290. Individual and social factors create special risk factors for women. For example, women travelling alone may have little choice but to sell sex for survival, or to establish partnerships in transit or at destination, simply for protection. Refugee and internally displaced women without a male partner may find themselves without protection. In addition, they may have been exposed to rape as a weapon of war or to rape in camps as a result of the boredom, depression and substance abuse among males that may trigger sexual violence. The risk of sexual violence also increases in sex-segregated and unregulated sectors of the economy, for example for female traders, domestic workers and sex workers (Haour-Knipe and Grondin, 2003). Trafficked women are also at high risk, particularly those forced to work in prostitution.

291. Labour migration, particularly seasonal movements, increases the likelihood of HIV/AIDS, for not only male migrants but also for stay-at-home women partners. In

Uganda, people who moved within the last three years were three times more likely to be infected with HIV than those who had had stable residence for 10 years. In Senegal, HIV spread first to men who became infected during seasonal migration, then to their rural partners when they returned. In South Africa, migration disrupted family life and created a market for prostitution, and the spread of HIV/AIDS, in mining towns (Lurie and others, 1997). Another study in South Africa found that HIV was three times more likely among those who had recently changed their place of residence (Abdool Karim and others, 1992).

292. Similar situations exist in Asia, as summarized by the *2004 Report on the Global AIDS Epidemic*: "A recent study in India found that 15.9 per cent of truck drivers working a route in the south were HIV-positive, compared to the national HIV prevalence of below 1 per cent ... In Sri Lanka, housemaids who have returned from working in the Middle East account for about half of reported HIV cases" (Joint United Nations Programme on HIV/AIDS, 2004, p. 83).

293. The relationship between migration, gender, equality and HIV infection can be very complicated, as indicated in Chirwa's study of Malawi:

> "Returning migrants engage in conspicuous spending, and since their incomes are generally higher than those of the average peasants at home, they become a major attraction to the rural women. As a result, the returned migrants often tend to have more than one sexual partner. These intrinsic relationships between, on the one hand, migration and multi-partnered sex, and, on the other, migration and material comfort, facilitate the spread of HIV infection." (Chirwa, 1997, p. 6)

294. Given the complex nature of the relationship, efforts to address the transmission of HIV/AIDS must be multifaceted, addressing not only the health implications but also the socio-economic factors that lead to heightened vulnerability. According to the *2004 Report on the Global AIDS Epidemic*, "the wide variety of conditions facing migrants requires that HIV prevention be carefully tailored to the specific circumstances of different groups. On a global level, there is increasing attention on prevention among mobile populations that regularly cross international borders such as truck drivers, traders and sex workers" (Joint United Nations Programme on HIV/AIDS, 2004, p. 83).

295. Immigration policies vary in terms of the admissibility of HIV-positive persons. "Some countries have prioritized voluntary testing, care and treatment for HIV-infected migrants and asylum-seekers. However, other countries have opted for mandatory testing and exclusion. This is particularly the case if they are planning to remain in the host country for longer than six to twelve months. Some countries exclude HIV-positive immigrants altogether, while others insist on evidence that the individual has the means to finance his or her own treatment and care while in the country" (Joint United Nations Programme on HIV/AIDS, 2004, p. 83). An investigation by the United Kingdom All-Party Parliamentary Group on AIDS and its counterpart group on refugees concluded that testing and exclusion were both impractical and undesirable on human rights and public health grounds. It recommended the Government adhere to recognized guidelines against mandatory testing, while encouraging voluntary testing to ensure improved access to treatment and care. The group also called for national guidelines on providing care to HIV-positive asylum-seekers living in the United Kingdom (UNAIDS, 2004).

IX. Conclusions and the way forward

296. The *World Survey on the Role of Women in Development: Women and International Migration* has outlined the growth in international migration, the important role of women migrants and the need for gender perspectives on the causes and consequences of these movements. The mobility of women has a wide-ranging impact and affects the roles of both female and male migrants, the families left behind in the migration process and societies in the source and destination countries of migrants. In particular, migration of women within and from developing countries affects the development process itself for those countries. It also raises a number of challenges to immigration and refugee policies that address such issues as family reunification and formation, labour migration, trafficking and smuggling, forced migration and migrant health.

297. Governments may wish to consider taking the following actions aimed at helping to empower migrant women and reducing their vulnerability to abuse, as highlighted in the *World Survey on the Role of Women in Development*:

(a) Ratify and actively monitor the implementation of all international legal instruments that promote and protect the rights of migrant women and girls, such as the Convention on the Elimination of All Forms of Discrimination against Women; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the Convention relating to the Status of Refugees; the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime; and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime; the Convention on the Rights of the Child, and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography; the Migration for Employment Convention (Revised) 1949 (No. 97); and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143);

(b) Review national emigration and immigration laws and policies in order to identify discriminatory provisions that undermine the rights of all migrant women, including such rights as bestowing and retaining nationality, according nationality to children and acquiring citizenship where the marriage is violent and abusive;

(c) Ensure that the definition of trafficking and trafficking victims in national laws is consistent with the definitions included in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;

(d) Ensure national policies addressing trafficking balance approaches that focus on crime prevention and prosecution with efforts to protect the rights of trafficked persons as set out by the Office of the United Nations High Commissioner on Human Rights in the Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1). The protection measures should also be consistent with those contained in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, including providing legal representation, witness protection, rehabilitation of victims and the possibility

of repatriation or staying in the country of destination, and supporting efforts to combat the root causes of trafficking in countries of origin, in particular through the economic empowerment of women;

(e) Adopt and implement policies that recognize gender-based persecution at the hands of non-State actors as grounds for granting refugee status under the 1951 Convention relating to the Status of Refugees when the Government of women asylum-seekers is unwilling or unable to protect them from violence and abuse;

(f) Allow women applying for asylum to be interviewed separately from their husbands or other male members of their families to determine their eligibility for refugee status, and adopt gender-sensitive approaches in carrying out the interview, including the use of female interviewers and translators trained in gender issues;

(g) Develop policies that recognize the contributions of migrant women in countries of destination and ensure that their professional credentials are recognized or that training for recertification, if required, is available.

298. Governments at all levels, international organizations including the United Nations, civil society including non-governmental organizations and the private sector should, as appropriate, take the following actions:

(a) Improve the protection of migrant women's rights, their safety and security in particular, through steps in both source and destination countries to protect them from labour abuses, sexual exploitation, trafficking and other exploitable situations, including migrant women, domestic and care workers who are either not covered or inadequately covered by labour legislation or who face exploitation because legislation is not enforced;

(b) Take steps to reduce the cost of remittance transfers by encouraging competition in the remittance transfer market; by requiring that transfer companies provide accurate information regarding fees and exchange rates; by monitoring the safety and security of the transfers; and by providing financial literacy training to the migrant women who send remittances and to the women who receive remittances;

(c) Develop policies that enhance migrant women's employment opportunities, access to safe housing, education, language training in the host country, health care and other services;

(d) Develop education and communication programmes to inform migrant women of their rights and responsibilities under international and national laws, taking into consideration their cultural and linguistic backgrounds;

(e) Disseminate accurate and timely information about trafficking to potential migrants to enable them to make informed decisions;

(f) Undertake research and collect data on international migration and disseminate them in appropriate ways, particularly by disaggregating all statistics by sex and age, in order to improve understanding of the causes of female migration and its impact on women, countries of origin and countries of destination so as to provide a solid basis for the formulation of appropriate policies and programmes;

(g) Develop and disseminate information on the positive contributions of migration, particularly to dispel misinformation that leads to xenophobic and racist

responses in destination countries that can put migrant women at risk of violence and abuse;

(h) Implement the Guidelines on the Protection of Refugee Women of the Office of the United Nations High Commissioner for Refugees; Sexual and Gender-Based Violence against Refugees Returnees and Internally Displaced Persons: Guidelines for Prevention and Response of the Office of the United Nations High Commissioner for Refugees; the Guiding Principles on Internal Displacement; the Recommended Principles and Guidelines on Human Rights and Human Trafficking of the Office of the United Nations High Commissioner for Human Rights; and other policies and guidelines on empowering refugee and displaced women and on protecting their rights and physical safety and security;

(i) Improve the access of migrant women, including refugee women and displaced girls, to primary and reproductive health-care services, including programmes to address sexual and gender-based violence, trauma resulting from flight and conflict, and sexually transmitted diseases, including HIV/AIDS;

(j) Give attention to the role of migrant women, including refugee and displaced women, in the reconstruction and development of post-conflict societies and ensure their full participation in decision-making processes.

Notes

[1] Those instruments include the 1951 Convention relating to the Status of Refugees and its 1967 Protocol; the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Crime; the 2000 Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Crime; the 2000 United Nations Convention against Transnational Organized Crime; and the 1979 Convention on the Elimination of All Forms of Discrimination against Women.

[2] World Conference of the United Nations Decade for Women: Equality, Development and Peace, held in Copenhagen in 1980; World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, held in Nairobi in 1985; and the Fourth World Conference on Women, held in Beijing in 1995.

[3] *Report of the International Conference on Population and Development, Cairo, 5-13 September 1994* (United Nations publication, Sales No. E.95.XIII.18), paras. 4.9, 10.5, 10.9, 10.13 and 10.18.

[4] *Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995* (United Nations publication, Sales No. E.96.IV.13), paras. 36, 46, 116, 125c, 126d, 130b, 130d, 130e and 225.

[5] See resolution S/23/3, annex, para. 5.

[6] United Nations publication, Sales No. E.03.IV.10.

[7] Union of Soviet Socialist Republics (USSR).

[8] European Union Council resolution 97/C 382/01, of 4 December 1997, *Official Journal of the European Union*.

[9] Committee on Migrant Workers, International Labour Conference, ninety-second session, Geneva, June 2004.

[10] Examples include Colombia, Hong Kong S.A.R., India, Mauritius, Pakistan and the United Kingdom (St. Helena).

[11] While a majority of female migrants move voluntarily for family or work purposes, a smaller number have been forced to leave their homes owing to conflict, repression, human rights violations, political instability and similar factors. Some are displaced internationally whereas others are forced to relocate within their own countries.

[12] Among the Governments issuing guidelines are Australia, Canada, Ireland, the Netherlands, Norway, South Africa, Sweden, the United Kingdom and the United States.

[13] See also A/57/465, annex I.

[14] *Women, Peace and Security* (United Nations publication, Sales No. E.03.IV.1), para. 130; and Report of the Inter-Agency Standing Committee Task Force on Protection from Sexual Exploitation and Abuse in Humanitarian Crises (A/57/465, annex I).

[15] Stability is reached when the crude mortality rate falls below one in 10,000 per day, when there are no major epidemics and when the refugee population is not expected to repatriate or relocate within six months (WHO, UNFPA and UNHCR,1999).

[16] Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, article 3 (a).

[17] See Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, article 3 (a).

[18] See "Legal instruments and procedure to enhance protection of migrant women", brief prepared for the Division for the Advancement of Women by Justice Sujata Manohar (2004).

[19] Ibid.

[20] Ibid.

[21] Section VII.D addresses citizenship issues arising from international migration. For a full discussion of the gender dimensions of citizenship, see "Women, nationality and citizenship", *Women 2000 and Beyond* (June 2003).

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